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I N D E X

	<u>Direct</u>	<u>Cross</u>	<u>Redirect</u>	<u>Recross</u>
<u>WITNESSES FOR</u>				
<u>THE PLAINTIFFS</u>				
CHRISTOPHER WALKER	863	895	1024	
BERNARD LUBY	1044	1044		
SUBHASH BHANOT	1044	1045		
MICHAEL LASSERE	1045	1046		
CAROL CAMPBELL	1046	1074	1111	

—Walker - Direct - Monsour—

1 PROCEEDINGS had before The Honorable Irene C. Berger,  
2 Judge, United States District Court, Southern District of West  
3 Virginia, in Charleston, West Virginia, on November 10, 2014,  
4 at 9:00 a.m., as follows:

5 (Jury returned into the courtroom at 9:03 a.m.)

6 THE COURT: Good morning, everyone.

7 Plaintiffs, call your next witness.

8 MR. MONSOUR: Yes, Your Honor.

9 Your Honor, we would call Dr. Christopher Walker, our  
10 expert urogynecologist.

11 THE COURT: All right.

12 (**CHRISTOPHER WALKER**, HAVING BEEN DULY SWORN,  
13 TESTIFIED AS FOLLOWS:)

14 THE COURT: Mr. Monsour, before you begin, I don't  
15 trust my memory. So, I would like to advise you all that on  
16 Thursday of this week we will recess at 3:00 for your  
17 planning.

18 MR. MONSOUR: Okay. Thank you, Your Honor.

19 THE COURT: Go ahead.

20 (DIRECT EXAMINATION OF CHRISTOPHER WALKER BY MR. MONSOUR:)

21 Q. Are you ready?

22 A. I'm ready, sir.

23 Q. Okay. Would you please introduce yourself to the ladies  
24 and gentlemen of the jury.

25 A. Good morning. My name is Dr. Chris Walker. I'm a

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1 urogynecologist from Orlando, Florida.

2 Q. Okay. Dr. Walker, have you ever testified as an expert  
3 in a courtroom before right now?

4 A. No, sir.

5 Q. Okay. A little nervous?

6 A. Definitely. I've never been in this situation before.

7 Q. Okay.

8 THE COURT: We've never lost a doctor yet.

9 THE WITNESS: Thank you, Your Honor. Thank you so  
10 much, Your Honor.

11 BY MR. MONSOUR:

12 Q. You've got a little bit of an accent. Would you  
13 tell everybody where you're from?

14 A. So, I'm from Kingston, Jamaica, a small island south of  
15 Florida where the motto is everything is no problem.

16 Q. Okay, good. Now, Dr. Walker, would you give us an idea  
17 of your background and training? You're a urogynecologist,  
18 but I guess -- could you tell us how you got there?

19 A. Yes, sir. So, my journey really began in Kingston,  
20 Jamaica, where I was trained at the University of the West  
21 Indies. It's a program that is trained -- where credentialing  
22 is through the University of London.

23 So, to make it simple, I'm British trained. That was  
24 my basic degree. And then afterwards, because of my dad and  
25 his inspiration, he told me to come to the land where he was

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1 trained, United States of America, where he said it was the  
2 best training in the world. And he's right.

3 So, I came and I got my training at the University of  
4 Texas. I did a family medicine program there for one year.  
5 And thereafter I went to the University of Kansas where I was  
6 privileged to be taught by a world renowned Professor known as  
7 Professor Kermit Krantz.

8 Q. And we've seen something earlier in the trial that talks  
9 about an MMK procedure. Professor -- Dr. Krantz is the K from  
10 the MMK procedure; correct?

11 A. That's correct, sir. So, he -- the procedure is known as  
12 Marshall-Marchetti-Krantz procedure, the MMK. It was a  
13 procedure that he designed to relieve ladies who have little  
14 tinkling problems. If they laugh, they cough, they sneeze and  
15 they tinkle, well, he was the one who invented the procedure,  
16 the so-called bladder lift. So, I was privileged and honored  
17 to be one of his students to be taught by the Professor.

18 Q. Okay. And he's one of the -- I think you were describing  
19 him -- I can't remember the term you used to describe  
20 Dr. Krantz.

21 A. He's one of the grandfathers of our subspecialty.

22 Q. Okay. So, after you get your training from Dr. Krantz,  
23 you then -- you're board certified?

24 A. Yes, sir. So, I am doubly board certified. So, that  
25 means I'm certified to take care of ladies, general OB/GYN. I

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1 can go and deliver babies and take care of annual visits and  
2 ovarian cysts, uterine problems.

3 But also there is another subspecialty meaning you can  
4 now really come and do reconstructive surgery. Ladies who  
5 have had a baby and if they laugh, they cough, they sneeze,  
6 they tinkle a little bit, or after having babies things start  
7 to fall and they're not in the right place anymore, well,  
8 that's a reconstructive surgery.

9 And, so, ladies -- roughly one in three ladies have  
10 this problem. And as a result of this thing being so common,  
11 there is a very small group of doctors in the country who have  
12 been trained to do this. So, I'm privileged to be one of  
13 them.

14 Q. Okay. And that is a -- you are a board certified  
15 urogynecologist?

16 A. Yes, sir, that's correct, sir.

17 Q. Okay. And there was the new board certification that  
18 came out a couple, two, three years ago?

19 A. It came out last year, sir. And I was privileged to be  
20 able to take the first exam and to pass it on the first try.

21 Q. Okay, good. You are -- your practice -- you're out of  
22 Orlando, Florida; correct?

23 A. That's correct, sir.

24 Q. And that's where Disney World is?

25 A. That's where Micky Mouse is, that's right.

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1 Q. Okay. And it's a greater metropolitan area of about,  
2 what, three million people give or take?

3 A. Yes, approximately three million people, a large  
4 population.

5 Q. And, and how many urogynecologists, board certified  
6 urogynecologists service the greater Orlando area?

7 A. Approximately five, sir.

8 Q. Okay. Now, have you ever, have you ever been an  
9 instructor at medical schools or a professor at medical  
10 schools?

11 A. Yes, sir. So, I'm an Assistant Clinical Professor at two  
12 medical schools that are located in Orlando, the Florida State  
13 University as well as UCF, University of Central Florida.

14 So, I assist them with teaching their young medical  
15 students. And I'm also faculty for the residency program  
16 where I teach young doctors how to perform surgeries. And  
17 these type of surgeries are very complicated, very delicate.  
18 And, so, I'm privileged to be teaching the young, young, new  
19 generation coming up.

20 Q. Okay. This -- in this case, you -- I asked you to  
21 perform an exam on Ms. Wilson; correct?

22 A. Yes, sir.

23 Q. And did you do that?

24 A. I did, sir.

25 Q. Okay. And I want to get into that. Would you agree that



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1 the answers that you provide to my questions today will be  
2 based upon a reasonable medical probability and a reasonable  
3 medical certainty?

4 A. Yes, sir.

5 Q. Okay. Unless you state otherwise?

6 A. Yes, sir.

7 Q. Okay. Let's get an idea of your current practice a  
8 little more. Give the jury an idea of how many pelvic  
9 surgeries you perform in a given month or year, however you  
10 want to state it.

11 A. Well, because we are in -- I'm in Orlando, Florida, and  
12 there are only five of us there, some of the doctors there  
13 work in a hospital. So, they are rarely working 9:00 to 5:00.  
14 And that is a little different than my practice where because  
15 of me being independent of anyone, I really work at my own  
16 pace. And with that said, I have a high volume of patients  
17 from the community who refer me. I have a lot of patients who  
18 they are members of a blog, a victim site, victims of mesh.

19 MR. ADAMS: Objection, Your Honor, relevancy.

20 THE COURT: I'm sorry?

21 MR. ADAMS: Objection on relevancy and 403.

22 THE COURT: Counsel, any response to the objection?

23 MR. MONSOUR: I don't know where he was going, so I  
24 don't even know what -- I'm not for sure what the answer was  
25 because it wasn't completed and I don't know what the

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1 objection was because I don't know what the answer was.

2 THE COURT: Well, as I understand it, he was talking  
3 about his patient base, the number of patients he has, the  
4 patients who refer him, and that some of them have a blog.  
5 And he was talking about referrals as I understood the  
6 testimony.

7 MR. ADAMS: Yeah. May we approach, please, Your  
8 Honor?

9 THE COURT: Yes, sir.

10 (The following occurred at sidebar.)

11 MR. ADAMS: I apologize, but I didn't want him to  
12 blurt out something that's inappropriate. He was going to  
13 talk about a blog that is victims of mesh. And that, that is  
14 the basis. There's no probative value of that at all and the  
15 prejudice is great.

16 THE COURT: Well, that runs afoul of the Court's  
17 ruling --

18 MR. ADAMS: It does.

19 THE COURT: -- about prior lawsuits, but I don't know  
20 that he's going there.

21 Mr. Monsour.

22 MR. MONSOUR: We'll, I'll, I'll instruct him not to  
23 talk about that.

24 THE COURT: Okay.

25 MR. ADAMS: Thank you.

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1 THE COURT: Thank you.

2 And, Mr. Adams, I appreciate your coming to the  
3 bench. I did not understand your objection.

4 MR. ADAMS: Yes. I'll try to keep doing that.

5 THE COURT: All right.

6 (Sidebar concluded.)

7 BY MR. MONSOUR:

8 Q. You were talking about the number of surgeries that  
9 you -- I just -- I generally just want, Dr. Walker, an  
10 idea to give the ladies and gentlemen of the jury just  
11 kind of to understand your experience level. Give them  
12 a ballpark of how many pelvic surgeries you've performed  
13 in your career.

14 A. I would say conservatively over 4,000 cases.

15 Q. Are you currently involved in -- are you currently  
16 involved in removing mesh from patients that have had problems  
17 with slings?

18 A. Yes, sir, I am.

19 Q. Okay. And how many of those are you doing in a given  
20 month?

21 A. On average, 30 to 40 of those types of patients per  
22 month, sir.

23 Q. Okay. And give us an idea of the types of procedures  
24 that you're performing on those women.

25 A. So, in some patients who have those types of

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1 complications, when I identify that the cause is due to a  
2 foreign body implant, I will make a -- are you asking me, sir,  
3 to describe the procedures?

4 Q. Just -- you don't have to go -- just kind of give me a  
5 general idea of what types of surgeries you're doing to  
6 help -- if someone comes in with a mesh sling problem, what  
7 you do to, to address it.

8 A. So, I always take a very thorough history, physical exam  
9 because I'm making sure that this is truly due to the mesh.  
10 It's very important to rule out all of the other possible  
11 causes of her problem.

12 Once I have identified that it is truly a mesh problem,  
13 then I will go through the options with the patient. Options  
14 may range from physiotherapy. It may range to doing some form  
15 of block using injections to try and help. And if it is to  
16 the point where we have a mesh eating into, say, the bladder  
17 or it's eating into the vagina, then in a case like that,  
18 that's someone who has to have that foreign body removed.  
19 And, so, I'll go through in detail my procedure.

20 My, my approach is to go vaginally because that's the  
21 place where the issue is. So, if the problem is in the  
22 vagina, then you want to approach it vaginally versus  
23 abdominally because an abdominal approach is going to be much  
24 more extensive, more recovery required.

25 And I will go in and meticulously attempt to remove as

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1 much of that mesh as possible knowing that with the greatest  
2 humility, it's not possible to take out all of it, even in the  
3 best hands. And I'm only a humble surgeon. But that product  
4 was designed to go in. It was never designed to come out.

5       So, even in the best hands, I make every attempt to  
6 take it out, as much as possible, knowing full well after  
7 giving informed consent to the patients, explaining to them  
8 that even though I'm going to do my absolute best -- sometimes  
9 I spend seven, six, seven, eight hours trying to take this  
10 thing out. Even though I do this or multiple attempts at  
11 taking it out, I will still say to the patient, "You know, in  
12 the spirit of being honest, I need you to know that I have  
13 done my best, but even then it may not be possible to get it  
14 all out."

15 Q. Now, Dr. Walker, in the process of taking out mesh from  
16 people that have had mesh sling problems, have you ever  
17 removed an Obtryx sling?

18 A. Yes, sir.

19 Q. Okay. Would you give us an idea -- and we've seen, we've  
20 seen what the mesh looks like when it goes in. We've seen  
21 what the mesh looks like when it goes in. When you have to  
22 remove the mesh, would you describe it for us?

23 A. So, counsel, the mesh when it goes in looks nice and flat  
24 and it goes in smoothly. I never put in any Obtryx slings  
25 before, but I certainly take them out. And when you take them

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1 out, they have -- because of the body reacting with it, based  
2 upon what I see, it looks different than what it looks like  
3 this morning in the courtroom. It's contracting and has  
4 shrunk down.

5 When I put my forceps to the mesh, it breaks apart. We  
6 have the breakdown of the mesh with application of gentle  
7 pressure. And the tissue around the area is very hard to  
8 touch, indicative of inflammation, something that has been  
9 there for a long time, festering and causing a problem.

10 Q. Okay. Now, approximately -- I don't know if you answered  
11 this. I don't think you did. But give me an idea of how many  
12 of these sling revisions you're doing in a given month.

13 A. Roughly, sir, 30 to 40.

14 Q. Okay. When the sling shrinks -- when you've seen it and  
15 it's shrunk and it's brittle or breaking apart, can that be a  
16 pain generator inside of a woman's pelvis?

17 A. A tremendous amount of pain.

18 Q. And why is that?

19 A. Well, you have something that's put inside, that piece of  
20 tape. And that tape tightens up over time. It doesn't  
21 tighten up overnight. It tightens up over time because it's  
22 festering. And over time, especially over the bones -- we  
23 have a bony architecture. Those never move. Those are fixed.

24 So, you have the tissue tightening up over the bones  
25 over time. And as a result of that tightening process, that

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1 creates a lot of pain. Sometimes it pulls in the surrounding  
2 nerves. So, you have nerve entrapment. Now, that's when you  
3 start to have serious problems with the ladies complaining of  
4 having pain that radiates to other areas of the body.

5 Q. Okay. So, even though a sling is implanted in the  
6 vagina, it can cause pain to shoot to other areas of the body?

7 A. Yes, sir, it can.

8 Q. Now, at one point in your career you did use some mesh  
9 slings, didn't you?

10 A. Yes, sir, I did.

11 Q. And give us an idea of what the turning point was for you  
12 as to when you started limiting your use of them. And give  
13 the jury an idea of how that happened and why that happened.

14 A. Well, in February, 2011, I attended a conference. One of  
15 the things with being a doctor, you have to keep yourself  
16 up-to-date and keep your mind open remembering we're always  
17 here to serve our patients.

18 So, I went in February of 2011 and I attended a  
19 conference where a world renowned urogynecologist, he is world  
20 famous, Professor Shlomo Raz, and he presented at our  
21 conference.

22 Q. What was the name of the conference?

23 A. FUUS.

24 Q. Okay.

25 A. And at that conference, he was presenting his concerns

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1 related to these mesh implants. And it was his expert  
2 opinion --

3 MR. ADAMS: Objection, Your Honor. This is hearsay.

4 THE COURT: All right. Response, counsel?

5 MR. MONSOUR: Your Honor, it's his understanding of  
6 the science. He went to a seminar. Dr. Raz is one of the  
7 foremost experts in the field. He's talking about how his  
8 practice changed based upon learning new information. I think  
9 that's highly relevant.

10 THE COURT: Well, I think he can testify to having  
11 gone to the conference, to the subject matter of being  
12 presented, and to what, if any, result it had with respect to  
13 his practice. But I would sustain an objection to his  
14 testifying to any statements -- excuse me -- made by the  
15 expert during the conference and to the expert's opinion  
16 itself, counsel.

17 BY MR. MONSOUR:

18 Q. Give us an idea -- after hearing world renowned  
19 Dr. Shlomo Raz talk at this seminar, you changed your  
20 practice?

21 A. Yes, sir.

22 Q. And how did your practice change?

23 A. My practice changed because I then implemented my own  
24 approach. My approach changed so that instead of me putting  
25 meshes high on my list of options, I made it the last option



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1 for my patients.

2 So, in my practice I have a number of options that I  
3 will present to a patient first. And after presenting those  
4 options, I'll leave at the bottom as a last resort the use of  
5 a mesh product.

6 Q. Okay. So, give, give us an idea. How many of your  
7 patients would you even consider using a mesh sling for?

8 A. Less than five percent.

9 Q. And, and who are those less than five percent that you  
10 would consider using a sling for?

11 A. I would use the product in a patient who has failed me  
12 trying to inject the urethra, me trying to put in a sling  
13 using human tissue, using biologic tissue, and me trying to do  
14 physiotherapy. Those are the alternative forms of therapy.  
15 And it would be that type of patient who has failed.

16 And then I'm going to sit down with her and I'm going  
17 to be very honest with her. I'm going to say, "Now, listen,  
18 there is a risk associated with the implantation of this  
19 permanent foreign body." And that risk -- I'm going to show  
20 her the MSDS sheet and make sure she understands that. I  
21 personally in my practice give the patients the MSDS sheet.  
22 My surgical coordinator does this. And that really is the  
23 Material Safety Data Sheet. I give it to them.

24 And when I present it to the patients in a -- my  
25 informed consent includes saying to them, "As a part of that,

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1 you need to know that the polypropylene from the Marlex was  
2 not supposed to be put into human beings." So, I affirm that,  
3 "This is your last resort." And after that, it's left for the  
4 patient to decide because I'm serving the patient.

5 Q. Now, you give your patients the Marlex MSDS sheet, the  
6 less than five percent that you would consider a sling;  
7 correct?

8 A. That's correct, sir.

9 Q. Do you even know if the product that you use uses Marlex  
10 polypropylene?

11 A. No, sir. But I know the Marlex is so bad that I figure  
12 if I'm going to give informed consent, true informed consent  
13 that if I'm going to say to my patient, okay, if it is a  
14 polypropylene Marlex the sling that I'm using is made of then,  
15 okay, my heart, my conscience is clear. I have given true  
16 informed consent.

17 Q. Okay. Now, when you use a synthetic polypropylene sling,  
18 do you use the Obtryx?

19 A. No, sir.

20 Q. Okay. Why would you -- have you ever used the Obtryx?

21 A. No, sir.

22 Q. Would you ever use the Obtryx?

23 A. No, sir.

24 Q. Tell the jury why not.

25 A. The design is bad. The transobturator approach -- there

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1 are two approaches to putting in the sling, two main  
2 approaches. One is a retropubic, going behind the bone.

3 MR. ADAMS: Objection. May we approach?

4 THE COURT: Yes, sir.

5 (The following occurred at sidebar.)

6 MR. ADAMS: The objection is this opinion was not  
7 disclosed. He did not offer any opinions as to whether the  
8 Obtryx design was bad or defective or whatever language he  
9 wanted to use. He didn't talk about transobturator versus  
10 retropubic slings. He gave no opinions on that.

11 And I have his report. I could short-circuit this  
12 and just ask Mr. Monsour. There's nothing in this report  
13 about it and he didn't testify about it in his deposition.

14 THE COURT: Mr. Monsour.

15 MR. MONSOUR: In his deposition he talked about how  
16 he had used a Boston Scientific retropubic sling. And, so, I  
17 was going to get him to talk about that and why he -- because  
18 they're going to cross-examine him. So, I wanted him to  
19 explain why he would use that and why he wouldn't use the  
20 transobturator approach because they're going to cross-examine  
21 him and say, "You've used Boston Scientific products." So,  
22 I'm just setting the foundation for that.

23 THE COURT: Okay.

24 MR. ADAMS: That might have been appropriate for  
25 redirect, but there's no opinions that he states in this

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1 report about why he chose one versus the other. And he never,  
2 he never offered any opinions that the Obtryx was bad, which  
3 he just blurted out.

4 THE COURT: Anything further?

5 MR. MONSOUR: Nothing further.

6 THE COURT: I don't know where cross is going. You  
7 know that because you've had the benefit of deposition  
8 testimony. I'm going to preclude it at this point --

9 MR. MONSOUR: Okay.

10 THE COURT: -- and see where cross goes. And if we  
11 have to revisit this, we will.

12 MR. MONSOUR: Okay. Thank you, Your Honor.

13 (Sidebar concluded.)

14 BY MR. MONSOUR:

15 Q. Now, Dr. Walker, what I'd like to do is talk to you  
16 about Chris Wilson. Okay?

17 A. Yes, sir.

18 Q. And how do you know Ms. Wilson?

19 A. So, I was retained as an expert for this case, for this  
20 case to see and meet and examine Ms. Wilson.

21 Q. Okay. Let me -- I'll give you a copy of your report just  
22 so you can have it handy in case you need to refer to it at  
23 any point in time.

24 A. Thank you, sir.

25 Q. You met with Ms. Wilson for about how long?

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1 A. We spent a long time, approximately two and a half hours,  
2 sir.

3 Q. Okay. And did you take a history from her?

4 A. Yes, sir.

5 Q. Did you look at her medical records?

6 A. I did, sir.

7 Q. Did you perform a physical exam on her?

8 A. Yes, sir, I did.

9 Q. Now, as a result of your looking at her medical, your  
10 taking a history from her, your physical exam, did you form  
11 some opinions?

12 A. Yes, sir.

13 Q. Okay. What I'd like to do is talk about some of those  
14 opinions, and I want to get to that. But the first thing I'd  
15 like you to do is give us an idea of what you found in, on  
16 your physical exam of Ms. Wilson.

17 A. On my examination of Ms. Wilson, the significant findings  
18 were really confined to the female genital organs,  
19 specifically the vagina.

20 Ms. Wilson complained that she has this persistent  
21 pain, especially on the left side. Well, when I did a genital  
22 pelvic examination, on the roof of the vagina on the left side  
23 right beside the bone, I felt the mesh that was eating its way  
24 into the vagina. It felt like steel bristles, like steel  
25 bristles of a brush.

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1 Q. What else did you find on your physical exam?

2 A. The area was very, very inflamed. And as a result of  
3 that, the tissue was very tight over the bone. And with  
4 gentle palpation, the poor lady almost jumped off the bed she  
5 was in so much pain.

6 Q. What else did you find?

7 A. The area around the mesh implant was like plucking a  
8 banjo string. It was very -- it was like a, something that I  
9 could pluck overlying the area of the foreign body implant.

10 Q. What is that? When you talk about plucking a banjo  
11 string, give us an idea. What does that mean to you  
12 medically?

13 A. So, medically that means that there is a foreign body  
14 there. And in this case, it was the tape, the mesh tape that  
15 was there that I could pluck. And every time I plucked it,  
16 the poor lady was in so much pain.

17 Q. Here's what I'm getting at. How does mesh that starts  
18 off like this end up, end up like a banjo string inside of  
19 your body?

20 A. Because --

21 Q. How do you get from point A to point B?

22 A. You have a process of, known as chronic inflammation.  
23 Quite frankly, it's a festering of a sore. The area has  
24 festered over time. The tissue has shrunk down and contracted  
25 and become very, very tight. And as a result of that, as it

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1 shrinks down, it shrinks to create this banjo-like effect like  
2 a string you can pluck.

3 Q. Is that a source of pain for a woman that is experiencing  
4 that phenomenon?

5 A. It is a source of pain. Yes, sir, it is a source of  
6 pain.

7 Q. Now, we had seen earlier in the trial there was an  
8 article written by a Dr. Cholhan and it mentions periurethral  
9 banding. Is the banjo string that you're talking about, is  
10 that periurethral banding?

11 A. That is exactly what it is, sir. So, Ms. Wilson would  
12 fall in the category as described by that study, the Cholhan  
13 study of having the periurethral banding, yes.

14 Q. Okay.

15 MR. MONSOUR: Can I use the ELMO?

16 BY MR. MONSOUR:

17 Q. When you looked at the medical records, did  
18 anything -- did you see anything that showed the effect  
19 of the tightening that was going on inside of Ms.  
20 Wilson?

21 A. Well, I did take note of Dr. Bhanot's surgical note in  
22 the past. He had actually described that -- Dr. Bhanot from  
23 my recollection was her implanting physician. So, he put in  
24 the sling to begin with.

25 And then he realized that it had gotten so tight over a

—Walker - Direct - Monsour—

1 period of about three years that it caused her to have what we  
2 call urethral stenosis. It was so tight, it was cutting off  
3 the urinary stream. So, he had to go and cut the mesh sling.  
4 And I noted in his op note that he said the tissue sprung,  
5 sprung apart.

6 Q. Okay. And I want to show the jury that. It says -- I  
7 think the area that you're talking about is right here where  
8 Dr. Bhanot says, "There was a significant amount of scarring  
9 which was gradually gently dissected and the tape was  
10 examined. The tape was felt found and it was divided on both  
11 the sides. The urethra did spring open after that."

12 As a surgeon when you hear about the urethra springing  
13 open, does that give you an indicator as to how tight  
14 something would be?

15 A. Oh, most definitely, sir.

16 Q. And, so, what did you learn when you read this?

17 A. It indicated to me that the patient had a very tight mesh  
18 sling that had tubal ligated into her bladder.

19 Q. Now, there was another study that we've heard about.  
20 It's called the Ross study and it talks about palpable mesh.  
21 Did she have what's called palpable mesh?

22 A. In my expert opinion, yes.

23 Q. And one of the questions that I have for you, Dr. Walker,  
24 is what does Chris Wilson's future look like? I mean, she's  
25 still got problems. She's still got pain. She talked about



—Walker - Direct - Monsour—

1 her pain radiating into her abdomen and into her back. What  
2 does her future look like? If she comes to see you, what is  
3 she going to need in the future to try and make her better or  
4 as good as she's going to get?

5 A. Well, Mr. Monsour, I tell you, I would be honored to take  
6 care of Ms. Wilson. She's a very nice lady. But I'm going to  
7 sit down with her and be very honest with her like I am with  
8 all my patients and say to her, you know, that mesh was  
9 designed to go in. It's not going to be humanly possible for  
10 me to take it all out. And there is a very significant chance  
11 that this is going to be a permanent life-long issue for her.

12 Q. Okay.

13 A. I will do my best to help her, but it's something that  
14 she may have to live with for the rest of her life.

15 Q. Okay. And that's, that's one of the questions that we  
16 have to ask and one of the things that we're talking about  
17 when we're -- the jury's going to be asked what is more likely  
18 than not. In other words, they're going to rely upon your  
19 medical opinion as much as they put credibility to it.

20 And the question that I'm going to ask you is within a  
21 reasonable medical probability, within a reasonable medical  
22 certainty, is Ms. Wilson going to have problems as a result of  
23 her Obtryx mesh for the rest of her life?

24 MR. ADAMS: I'm going to object.

25 THE WITNESS: Yes, sir.

—Walker - Direct - Monsour—

1 MR. ADAMS: I'm going to object to the prefatory  
2 language of the instruction, or the question talking about the  
3 Court's instruction.

4 THE COURT: I overrule the objection, counsel. And I  
5 will place further ruling on the record with respect to that  
6 at a break if you want. Go ahead.

7 MR. MONSOUR: Thank you, Your Honor.

8 BY MR. MONSOUR:

9 Q. Do you believe Ms. Wilson is going to need  
10 surgeries in the future to try and fix her problem?

11 A. I do believe so, sir, yes.

12 Q. And are those surgeries that would, where someone like  
13 you, either you or someone like you would attempt to cut out  
14 the mesh?

15 A. Yes, sir. The mesh has to be cut out. And then there is  
16 a dilemma -- when you take it out, you know, you're going to  
17 have a gap. You're going to have a gaping area. You're going  
18 to have a gaping area in the vagina.

19 So, there may be an issue of us having to do some mode  
20 of grafting, bringing skin from another area, another part of  
21 the body to patch what I've taken out. So, we're looking at  
22 multiple steps to fix Ms. Wilson, --

23 Q. Okay.

24 A. -- not just one surgery, sir.

25 Q. Okay. You also mention in your report that she has a

—Walker - Direct - Monsour—

1 neurologic component or a neuropathic component. What does  
2 neuropathic and neurologic mean?

3 A. What I'm trying to say, sir, is that the pain is not the  
4 type of pain you would get if I came and punched you on the  
5 shoulder. Ms. Wilson's pain is a nerve-related pain. You  
6 touch the area in her vagina where the mesh is eating into the  
7 vagina but, yet, she's telling me, "Doc, I'm feeling pain on  
8 the left side of my -- on the front of my abdomen." So,  
9 that's telling me right there it's a nerve causing the pain.

10 I'll have to do more nerve testing, of course, to get  
11 the precise nerve. But common sense, if I'm touching it here  
12 in the vagina and she's having pain in the abdomen, that's a  
13 nerve pain.

14 And, so, with that said, sir, she's going to need  
15 medications to calm down the nerve, the neuropathic pain we  
16 call it, the nerve pain. She's going to need medications to  
17 address that and other therapeutic interventions.

18 Q. Okay. You note that you believe she likely has a  
19 permanent neurologic injury in your report. We talked about  
20 how you treat the mesh. But how do you treat a permanent  
21 nerve injury?

22 A. We address it in a multifactorial approach, multiple  
23 specialties. We all sit down and come together to the table  
24 to do this. I do this every day.

25 MR. ADAMS: Objection, Your Honor. May we approach?

—Walker - Direct - Monsour—

1 THE COURT: Yes, sir.

2 (The following occurred at sidebar.)

3 MR. ADAMS: I was a little slow on the switch there.  
4 He does not mention any kind of permanent neurological damage  
5 in his report.

6 MR. MONSOUR: It's right here.

7 THE COURT: Just a second.

8 MR. MONSOUR: I'm sorry.

9 THE COURT: Finish your objection.

10 MR. ADAMS: Yeah. My objection is this isn't in any  
11 disclosed opinion.

12 MR. MONSOUR: It's right here, Your Honor, Number 4.  
13 Look on the last page.

14 THE COURT: If you received this, it appears to me  
15 that it has been disclosed.

16 MR. ADAMS: It says has likely -- okay, okay.

17 MR. MONSOUR: Right there.

18 MR. ADAMS: Yeah.

19 THE COURT: For the record, I overrule the objection.

20 MR. ADAMS: Thank you.

21 MR. MONSOUR: Thank you, Your Honor.

22 (Sidebar concluded.)

23 BY MR. MONSOUR:

24 Q. The -- we were talking about the permanent nerve  
25 injury. Give us an idea -- give the ladies and

—Walker - Direct - Monsour—

1 gentlemen of the jury of how you treat a permanent nerve  
2 injury in the vaginal area.

3 A. In situations like this we sit down with the patient and  
4 explain this is a life-long issue. So, we have to establish  
5 an understanding amongst us, physician and patient, that I  
6 can't cure the problem. So, as long as we understand, that's  
7 the first thing. So, we establish expectations.

8 The next thing is that we bring into the team  
9 physiotherapy. We also bring to the team a pain medicine  
10 specialist, as well as myself. And what we do, we literally  
11 try to target the nerve that's causing the pain, and we try to  
12 destroy that nerve.

13 Now, I'll be honest with you, Mr. Monsour. Some nerves  
14 you can't kill because if you kill it, then you're going to  
15 have unwanted issues, multiple down-the-road problems that can  
16 arise.

17 So, certain nerves, what we try to do, we desensitize  
18 them by using some form of injection therapy to decrease the  
19 amount of sensation, the output.

20 Q. And does that -- is that something that you do it once  
21 and it lasts forever?

22 A. No, sir. This is an on-going issue that has to be  
23 addressed on a very frequent basis. And it takes myself, as  
24 well as a pain management physician, physiotherapist. This is  
25 on-going therapy just to allow these ladies to have some

—Walker - Direct - Monsour—

1 normal quality of life.

2 Q. I want to talk with you about the -- I'd like to talk  
3 with you about potential other causes of Ms. Wilson's  
4 problems. We've got a report from Boston Scientific's expert  
5 and I just want to go through and have you address some of the  
6 points that I believe she --

7 MR. ADAMS: Objection, Your Honor.

8 THE COURT: Basis?

9 MR. ADAMS: Undisclosed opinion and this would be  
10 proper rebuttal, not, not for this gentleman's direct. He was  
11 not disclosed on this issue, nor was his report supplemented.

12 THE COURT: Mr. Monsour.

13 MR. MONSOUR: I'm asking him to rule out alternative  
14 causes as Judge Goodwin has indicated in his orders he would  
15 like the experts to do.

16 THE COURT: In terms of the reliability of the  
17 methodology that they use, I'm going to certainly permit you  
18 to do that. I think the objection goes more specific to the  
19 actual specific opinions that Mr. Adams believes you started  
20 to mention of Boston Scientific's experts.

21 MR. MONSOUR: I will not mention their experts any  
22 further. I will just get him to exclude other potential  
23 causes.

24 THE COURT: All right, sounds good.

25 MR. MONSOUR: Thank you, Your Honor.

—Walker - Direct - Monsour—

1 THE COURT: Yes, sir.

2 BY MR. MONSOUR:

3 Q. All right. So, let's talk about some potential  
4 causes of her pain that might be brought up or might not  
5 be brought up. But I want you to tell me whether or not  
6 they have anything to do with Chris Wilson's current  
7 problems. Okay?

8 A. Okay, sir.

9 Q. The first one is cystocele. Is cystocele causing her  
10 problems?

11 A. No, sir.

12 Q. Okay. First, would you tell us what cystocele is?

13 A. So, a cystocele is a fancy word that simply means a  
14 hernia of the bladder into the vagina. The bladder is falling  
15 into the vagina and that's what we call a cystocele.

16 Q. Okay. Does Ms. Wilson have a cystocele?

17 A. No, sir, she does not.

18 Q. Okay. Does she have a cystocele that's causing her  
19 problems?

20 A. No, Mr. Monsour.

21 Q. Okay. Now, fibroids. Are fibroids causing her problems?

22 A. No, sir.

23 Q. Well, how do you know?

24 A. Well, I did a history. I examined Ms. Wilson. And I  
25 also reviewed her medical records. She does have an enlarged

—Walker - Direct - Monsour—

1 fibroid uterus.

2           So, in the room here -- in the courtroom here,  
3 50 percent of patients -- 50 percent of the ladies here will  
4 have a fibroid uterus. That's the numbers. Once in two women  
5 will have a fibroid uterus. But not every woman has symptoms  
6 of the fibroids.

7           So, with that said, I examined Ms. Wilson. She has a  
8 slightly enlarged uterus. But it was not -- on my  
9 examination, I did not find any tenderness. And it certainly,  
10 with deep palpation, did not give her pain that she described  
11 on the left side. And I also examined her cervix. And there  
12 was no pathology that I identified related to possible  
13 fibroids, sir.

14 Q. Okay. Ovarian cysts. Are ovarian cysts causing her  
15 problems?

16 A. No, sir.

17 Q. How do you know that?

18 A. Again, I examined Ms. Wilson thoroughly on both the left  
19 and the right side. She did not have any adnexal pain. She  
20 did not have any pain. When I examined her deep during my  
21 pelvic examination on the left and on the right side, there  
22 was no pain demonstrated. Neither pain, nor did I feel any  
23 fullness in the area to suggest any form of pelvic mass.

24 Q. Okay.

25           MR. MONSOUR: Evan, would you bring up the picture,



—Walker - Direct - Monsour—

1 please.

2 BY MR. MONSOUR:

3 Q. Okay. Dr. Walker --

4 MR. MONSOUR: Would it be okay, Your Honor, if he  
5 comes down to point something out to the jury?

6 THE COURT: Yes, sir.

7 MR. MONSOUR: Okay, if you would come down.

8 THE COURT: You can step down, Doctor.

9 BY MR. MONSOUR:

10 Q. Would you give us an idea of -- would you give us  
11 an idea of -- okay. When you did your exam of Ms.  
12 Wilson --

13 A. Yes, sir.

14 Q. -- where did you find the pain generator to be?

15 A. The pain generator was right here in front of the vagina.

16 Q. Okay. Where are slings implanted?

17 A. Right here in the front of the vagina (indicating).

18 Q. Okay. Now, where is the uterus?

19 A. Up here (indicating).

20 Q. So, this is the uterus up here (indicating)?

21 A. Yes, sir.

22 Q. And, so, if the pain was coming from the uterus, it  
23 wouldn't be in the same spot as where the sling is?

24 A. No, sir.

25 MR. ADAMS: Objection, leading.

—Walker - Direct - Monsour—

1 THE WITNESS: It would not be.

2 THE COURT: Counsel, the objection to leading is  
3 sustained, --

4 MR. MONSOUR: Okay.

5 THE COURT: -- although he is an expert. Go ahead.

6 MR. MONSOUR: Okay.

7 BY MR. MONSOUR:

8 Q. Let me ask it again. If -- is pain in the uterus  
9 the same as pain in the sling implantation area? And if  
10 it's not, explain it to us.

11 A. So, as in Ms. Wilson's case, the mesh implant is right  
12 here in front of the vagina (indicating). And here is the  
13 bone (indicating). And what happened is that the mesh starts  
14 to eat into the vagina. In her case, the tissue here goes in  
15 front of the vagina. When I pushed on it, I felt those  
16 bristles eating its way into the vagina like a brush.

17 Now, after that, she -- with that said, I had to stop  
18 because she was in so much pain on the left side and it was so  
19 tight over this bone here. The pelvis is like a bone. And,  
20 so, on the left side, this is where it was eating its way on  
21 that side.

22 Now, with that said, I then -- after she calmed down, I  
23 proceeded to do a deep examination and feel for the uterus.  
24 And she had no pain.

25 Q. Okay.

—Walker - Direct - Monsour—

1 A. There was no pain when I examined the uterus. And I also  
2 ruled out any ovarian problem, which is higher up.

3 Q. Okay.

4 A. And there was no ovarian issue either.

5 Q. Is this -- is that where the cysts would be that they're  
6 talking about?

7 A. Correct, sir.

8 Q. Okay, all right. You can take back your seat. Do you  
9 believe -- let me ask you this. Have you answered my  
10 questions today based upon a reasonable medical certainty?

11 A. Yes, sir.

12 Q. Do you believe that the Obtryx mesh that was implanted in  
13 Ms. Wilson is the cause of the problems that you have  
14 described today?

15 A. Yes, sir.

16 Q. To include the banding, the mesh eroding into her vagina,  
17 and the nerve pain?

18 A. Yes, sir.

19 Q. Do you believe it's permanent?

20 A. Yes, sir.

21 Q. Even with the best treatment?

22 A. Even with the best treatment, yes, sir.

23 Q. All right. I'll pass the witness. Thank you, Dr.  
24 Walker.

25 THE COURT: Cross-examination.

—Walker - Cross - Adams—

1 MR. ADAMS: Thank you, Your Honor.

2 (CROSS EXAMINATION OF CHRISTOPHER WALKER BY MR. ADAMS:)

3 Q. Good morning, Dr. Walker. It's my privilege to  
4 meet you.

5 A. Good morning, sir.

6 Q. My name is Rob Adams. And we haven't met before;  
7 correct?

8 A. Correct, sir.

9 Q. Now, you mentioned to Mr. Monsour that today is your  
10 first time testifying in a court of law; correct?

11 A. In this capacity, sir.

12 Q. Okay. You've testified in other proceedings?

13 A. Correct, sir.

14 Q. And you've given depositions in other lawsuits where  
15 you've acted as an expert; correct?

16 A. That's correct, sir.

17 Q. And you know as an expert witness you have an obligation  
18 to be fair to both sides; correct?

19 A. That's correct, sir.

20 Q. You have to present the facts upon which you base your  
21 opinions in a neutral and fair manner; correct?

22 A. Correct, sir.

23 Q. Because you would not want to mislead the jury; correct?

24 A. That's correct, sir.

25 Q. And you're obviously being compensated for your time;

—Walker - Cross - Adams—

1 correct?

2 A. Correct, sir.

3 Q. And you're being compensated at a rate of \$550 an hour;  
4 is that correct?

5 A. That's correct, sir.

6 Q. And, now, one thing is clear. Ms. Wilson has never been  
7 your patient; correct?

8 A. That's correct, sir.

9 Q. The only reason why you examined her is that her  
10 attorneys flew her down to Orlando for you to examine her;  
11 correct?

12 A. That's correct, sir.

13 Q. You have never been involved in any of the other  
14 treatment or medical records that this jury has heard so much  
15 about. Agreed?

16 A. I agree, sir.

17 Q. And the opinions that you're talking about here is based  
18 upon a two-and-a-half-hour examination of Ms. Wilson; correct?

19 A. That's correct, sir.

20 Q. And part of that examination you took a history; correct?

21 A. Yes, sir.

22 Q. You talked about her prior issues; correct?

23 A. Yes, sir.

24 Q. And then you did the pelvic exam; correct?

25 A. That's correct, sir.

—Walker - Cross - Adams—

1 Q. And the -- now, you were given some medical records prior  
2 to preparing your report; correct?

3 A. Yes, sir.

4 Q. Do you have those medical records with you?

5 A. I don't have them with me now, sir, no.

6 Q. Okay. You are not able to tell this jury that you  
7 received all of her medical records. Fair?

8 A. I asked Mr. Monsour to give me whatever medical records  
9 he had, and he very diligently gave me whatever medical  
10 records he had in his, --

11 Q. Okay.

12 A. -- at his law firm. And I was able to review them.

13 Q. All right. And I believe in your deposition you, you  
14 reviewed no medical records of any of her history prior to the  
15 implant of the Obtryx sling; correct?

16 A. I would have to refresh my memory. I don't recall, sir.  
17 I don't want to speculate.

18 Q. Okay. We'll talk about the records in a little bit.

19 Now, could we put the diagram back up.

20 You had just told this jury about the, your examination  
21 of Ms. Wilson and you've talked about the pain; --

22 A. Yes, sir.

23 Q. -- correct? And then you came up and you showed where  
24 the pain is located. Okay?

25 A. Yes, sir.

—Walker - Cross - Adams—

1 Q. And I believe you indicated that the pain was located in  
2 the -- this would be the anterior or the top part of the  
3 vagina; correct?

4 A. That's correct, sir.

5 Q. And it was located -- well, you said in an area where the  
6 sling would be placed; correct?

7 A. Correct, sir.

8 Q. And as soon as you put your finger there or did the  
9 palpation there, according to you, she almost shot off the  
10 table; correct?

11 A. That's correct, sir.

12 Q. She immediately was, was reacting that way; correct?

13 A. Correct, sir.

14 Q. Now, and you did your examination, your expert  
15 examination on May 2nd of 2014; correct?

16 A. That's correct, sir.

17 Q. And do you have your report up there?

18 A. Yes, sir, I do.

19 Q. Okay. So, just verify that date for us if you would,  
20 please.

21 A. Yes, sir, May the 2nd, 2014.

22 Q. All right. Now, prior to May 2nd of 2014, Ms. Wilson had  
23 been evaluated by numerous treating physicians who performed a  
24 similar type of pelvic exam as you did on that date; correct?

25 A. Correct, sir.

—Walker - Cross - Adams—

1 Q. And you would agree with me that you have not seen a  
2 single medical record that describes any type of pain  
3 experienced in this area of her vagina; correct?

4 A. I don't recall that, sir, in her medical records.

5 Q. Yes. You don't recall it and you've never seen it;  
6 correct?

7 A. Correct.

8 Q. Agreed?

9 A. Agreed.

10 Q. So, no doctor before May 2nd of 2014 ever made a note  
11 that when he did a digital exam of her vagina that they  
12 observed that she experienced similar pain; correct?

13 A. Correct.

14 Q. You're the first one; correct?

15 A. Correct.

16 Q. And, so, not Dr. Bhanot; correct?

17 A. The implanting physician, correct.

18 Q. Yeah. And, now, Dr. Bhanot, he is a board certified  
19 physician; correct?

20 A. As far as I know, yes, sir.

21 Q. Okay. Do you know him?

22 A. I have no personal knowledge of him, no, sir.

23 Q. Okay. You know that Dr. Bhanot was her treating  
24 physician for her female issues; correct?

25 A. That's correct, sir.



—Walker - Cross - Adams—

1 Q. And like you, when you are treating somebody, you care  
2 about your patients; correct?

3 A. I care about my patients, yes, sir.

4 Q. And when you do a pelvic examination, you are careful to  
5 note any type of pain experienced in that examination;  
6 correct?

7 A. I do, sir.

8 Q. Right. And you would expect others in your field to do  
9 that too; correct?

10 A. I would expect my colleagues to do the same, sir.

11 Q. That's the standard of care; correct?

12 A. That's an accepted care.

13 Q. And there's not a single record from Dr. Bhanot where he  
14 indicates that he ever found any type of pain anywhere in her  
15 vagina; correct?

16 A. Correct.

17 Q. And the same is true with Dr. Jagannath. Do you know Dr.  
18 Jagannath?

19 A. I don't know Dr. Jagannath, no, sir.

20 Q. Well, Dr. Jagannath was one of her primary care  
21 physicians. And have you reviewed his records?

22 A. I have, but I don't know him personally, sir.

23 Q. Okay. Now, you know in Dr. Jagannath's records there are  
24 multiple entries of pelvic exams and the results of that;  
25 correct?

—Walker - Cross - Adams—

1 A. Correct, sir.

2 Q. And he never makes a single note of this pain that you  
3 found on May 2nd, 2014, in your two-and-a-half-hour  
4 examination; correct?

5 A. Correct, sir.

6 Q. Now, and that -- all these statements that I'm saying  
7 would be true for each and every treating physician that ever  
8 reviewed or evaluated Ms. Wilson; correct?

9 A. Correct, sir.

10 Q. All right. Now, sir, that examination, when you examined  
11 Ms. Wilson, that was paid for by plaintiffs' counsel; correct?

12 A. Yes, sir.

13 Q. It was not paid for by any type of, any type of insurance  
14 reimbursement; correct?

15 A. That's correct, sir.

16 Q. And we talked a little bit about the exam. Now, Ms.  
17 Wilson was -- she flew from West Virginia to Florida to visit  
18 you; correct?

19 A. That's correct, sir.

20 Q. And besides the two and a half hours of you examining Ms.  
21 Wilson, you've also spent approximately an additional ten  
22 hours on this case; correct?

23 A. Correct, sir.

24 Q. And that ten hours consisted of talking with attorneys;  
25 correct?

—Walker - Cross - Adams—

1 A. And reviewing medical records, that's correct, sir.

2 Q. So, in total you've spent about -- less than 14 hours;  
3 correct?

4 A. Approximately, sir.

5 Q. Now, Dr. Bhanot -- you were talking about your experience  
6 with the, with various slings. Do you recall that?

7 A. Yes, sir.

8 Q. And you were aware that Dr. Bhanot had excellent  
9 experience with the Obtryx sling; correct?

10 A. I'm not aware of his clinical experience, sir. I'm  
11 sorry.

12 Q. All right. So, prior to coming in and testifying as an  
13 expert witness in this case, you did not familiarize yourself  
14 with Dr. Bhanot's experience, his clinical experience in using  
15 the Obtryx sling?

16 A. Sir, that was not what I was asked to do to assess the  
17 typical skills and technical skills and experience of my  
18 colleagues. I was asked to focus on Ms. Wilson's causation,  
19 what's causing her pain by counsel. So, I focused on that. I  
20 didn't evaluate my colleagues' technical skills.

21 Q. Okay. So, you didn't review his experience with the  
22 Obtryx. Agreed?

23 A. Agreed.

24 Q. And you never reviewed his deposition; correct?

25 A. I have reviewed his deposition in preparation for today's

—Walker - Cross - Adams—

1 court hearing.

2 Q. Well, at the time of your deposition --

3 A. Correct.

4 Q. -- you hadn't --

5 A. Correct, sir.

6 Q. Okay. And you knew at the time of your deposition when  
7 you prepared your expert report, that was a time when we were  
8 coming in to get all of your opinions that you planned to  
9 give; correct?

10 A. Correct, sir.

11 Q. You knew that; correct?

12 A. Correct, sir.

13 Q. And, so, at that time, you had not even read Dr. Bhanot's  
14 deposition; correct?

15 A. Correct.

16 Q. You had not read Ms. Wilson's deposition; correct?

17 A. Correct, sir.

18 Q. You had not read any of the depositions in this case;  
19 correct?

20 A. I'd have to refresh my memory regarding all the  
21 depositions. I don't recall that.

22 Q. Do you want to look at your report to see if you reviewed  
23 any depositions?

24 A. In my report it does not mention it, sir.

25 Q. Okay. And just to be clear, now, Dr. Bhanot -- so, you

—Walker - Cross - Adams—

1 don't know anything about his clinical experience with the  
2 Obtryx. We've already established that. Correct?

3 A. That's correct, sir.

4 Q. And you, sir, you are not in any way saying that the care  
5 and treatment that was provided by Dr. Bhanot was below the  
6 standard of care; correct?

7 A. That's correct, sir.

8 Q. And you know that from just reviewing his medical records  
9 he was proceeding in his care and treatment in an appropriate  
10 manner for somebody in your field; correct?

11 A. That's correct, sir.

12 Q. You have no criticisms of him; correct?

13 A. Basically, from my review of his medical records, that's  
14 correct, sir.

15 Q. And you have no criticisms of the other doctors who  
16 treated, who treated Ms. Wilson; correct.

17 A. I haven't seen any concerning factors as I was  
18 formulating my differential diagnosis, correct.

19 Q. Okay. And when we talk about Ms. Wilson's history, now,  
20 when she presented to Dr. Bhanot, she did have a significant  
21 problem with leakage of urine; correct?

22 A. With the initial presentation, sir?

23 Q. Yes.

24 A. From my recollection of her past medical history, I  
25 recall him saying -- I would like to review his medical -- I

—Walker - Cross - Adams—

1 don't want to say "yes." The word "significant" is not -- I'd  
2 like to be refreshed with that, sir.

3 Q. I will help you out. Just a minute.

4 Okay, Dr. Walker, you recall -- now, you know that in a  
5 deposition you were sworn to tell the truth just like you were  
6 sworn earlier; correct?

7 A. Oh, yes, sir.

8 Q. Okay. And I've got your deposition.

9 A. Thank you, sir.

10 Q. You're welcome. And I'm going to refer you to Page 53  
11 and Line 11. Let me know when you get there.

12 A. Okay.

13 Q. Okay. And I'll read the question. You just tell me if  
14 I'm reading this correctly.

15 Page 53, Line 11: "All right. And you would know from  
16 looking at the records and also taking a history, you know, do  
17 you know that Ms. Wilson had a significant problem with  
18 leakage of urine prior to having the sling placed? True?"

19 Your answer is: "True, sir."

20 Did I read that correctly?

21 A. You did, sir.

22 Q. All right. And, so, you said that on that date; correct?

23 A. Correct, sir.

24 Q. And she had a significant problem. And, in fact, she  
25 leaked a substantial amount of urine when she coughed;

—Walker - Cross - Adams—

1 correct?

2 A. Correct, sir.

3 Q. When she sneezed; correct?

4 A. Correct.

5 Q. She leaked urine when she would strain to lift anything;  
6 correct?

7 A. Correct, sir.

8 Q. She would leak urine when she would have sex; correct?

9 A. Correct, sir.

10 Q. This problem was a significant problem; correct?

11 A. Correct, sir.

12 Q. And it was in no way a problem that you would  
13 characterize as just a nuisance; correct?

14 A. Oh, no, sir.

15 Q. You agree with me?

16 A. I agree with you.

17 Q. All right. This is beyond a nuisance stage. This is a  
18 woman with significant or severe stress urinary incontinence;  
19 correct?

20 A. Correct.

21 Q. And, in fact, you also -- sir, you know that Ms. Wilson  
22 presented with all these symptoms to Dr. Bhanot for  
23 evaluation; correct?

24 A. Correct, sir.

25 Q. And you know that Dr. Bhanot properly evaluated and

—Walker - Cross - Adams—

1 counseled her; correct?

2 A. Sir, that's speculation. I don't know what he -- I  
3 wasn't there when he was counseling Mrs. Wilson, Ms. Wilson.

4 Q. Fair enough. But in the records you saw where he  
5 counseled her on stress urinary incontinence; correct?

6 A. I saw that, sir.

7 Q. And you saw where he actually did, did diagnostic studies  
8 on the severity of her stress urinary incontinence; correct?

9 A. Yes, sir, he did.

10 Q. He did a uro -- he did what's called a urodynamic study;  
11 correct?

12 A. Correct, sir.

13 Q. And that study showed severe urinary incontinence;  
14 correct?

15 A. That's correct, sir.

16 Q. And, in fact, you do not have any type of criticism --  
17 strike that. You do not dispute that Ms. Wilson met the  
18 clinical diagnosis of severe stress urinary incontinence;  
19 correct?

20 A. Correct, sir.

21 Q. And you also do not dispute that -- given she had that  
22 condition, you do not dispute that it was appropriate for Dr.  
23 Bhanot to discuss surgical options with her; correct?

24 A. Correct, sir.

25 Q. So, you have no dispute that she was -- diagnostically



—Walker - Cross - Adams—

1 she needed surgery for SUI; correct?

2 A. She needed a procedure for SUI, yes, sir.

3 Q. And the surgical procedure offered by Dr. Bhanot is the  
4 use of the Obtryx. You know that?

5 A. Yes, sir, I do.

6 Q. Now -- and, by the way, you agree that stress urinary  
7 incontinence is a progressive condition; correct?

8 A. Correct, sir.

9 Q. So, in other words, things were not going to get any  
10 better for Ms. Wilson; correct?

11 A. Correct, without some form of intervention, sir.

12 Q. All right. So, diagnostically even though she's at the  
13 level of severe stress urinary incontinence, if she chose not  
14 to have that surgery, it was going to get a lot worse;  
15 correct?

16 A. Over time it would.

17 Q. Now, you had talked about, a little bit about the options  
18 that you use in surgeries. Do you recall that?

19 A. Yes, sir.

20 Q. Okay. And you agree with me that prior to the date of  
21 this conference, you would routinely use polypropylene  
22 mid-urethral slings; correct?

23 A. I used polypropylene mid-urethral slings as one of my  
24 choices for stress urinary incontinence.

25 Q. Okay.

—Walker - Cross - Adams—

1 A. That's correct, sir.

2 Q. Okay. And the volume, the number of slings that you  
3 placed prior to going to this conference was actually quite  
4 high; correct?

5 A. I would say, yes, it was -- I put in about 50, 50 plus  
6 slings prior to going to the conference. That's correct, sir.

7 Q. All right. And this conference that you went to, you had  
8 mentioned that at the conference you learned about certain  
9 issues with, with mid-urethral slings and polypropylene mesh;  
10 correct?

11 A. Correct, sir.

12 Q. And the conference -- I believe you indicated in your  
13 deposition this conference occurred in February of 2011;  
14 correct?

15 A. Correct, sir.

16 Q. You recall it because it was, it was at a nice place. It  
17 was at Las Vegas; correct?

18 A. That's correct, sir.

19 Q. All right. So, you went out to Vegas and you heard  
20 information from one, one person who talked about  
21 complications with the mesh; correct?

22 A. One amongst many. There were many authorities there and  
23 he had a lecture.

24 Q. And in your, in your deposition you mentioned that the  
25 two people that you heard speak were Dr. Ross; correct?

—Walker - Cross - Adams—

1 A. Correct, sir.

2 Q. And another doctor named Dr. Mickey Karram; correct?

3 A. Correct. Mickey Karram was the coordinator of the  
4 overall conference.

5 Q. And Dr. Karram -- and it's spelled K-a-r-r-a-m.

6 Dr. Karram, you know that he is a very prominent figure in the  
7 field of urogynecology; correct?

8 A. That's correct, sir.

9 Q. And at this conference you learned about some of the  
10 dangers or alleged issues with mid-urethral slings; correct?

11 A. Correct, at that conference.

12 Q. For example, you talked about this MSDS. You learned  
13 about the MSDS at that conference; correct?

14 A. I wouldn't say I learned about it at that conference. It  
15 was around that time I realized that I need to do more  
16 research into this issue.

17 Q. And that's when you found it out; correct?

18 A. That's, that's the turning point, yes, sir.

19 Q. All right. And that was approximately February of 2011?

20 A. Approximately, that's correct, sir.

21 Q. All right. So, by February of 2011, you have done more  
22 research and you have discovered the existence of this MSDS  
23 sheet; correct?

24 A. That's correct, sir.

25 Q. All right. And the jury's already seen the MSDS sheet.

—Walker - Cross - Adams—

1 You were able to find that on-line, weren't you?

2 A. No. I have actually contacted the, the representatives,  
3 the sales reps who come to the office. They get you -- any  
4 information, any studies you ask as a physician, they will  
5 provide those resources for you as a doctor.

6 Q. All right. And that was a sales representative for  
7 Coloplast; correct?

8 A. I don't recall, sir.

9 Q. Do you remember the name of the company that this person  
10 worked at who gave you the MSDS sheet in and around February  
11 of 2011?

12 A. I don't recall.

13 Q. All right. So, nevertheless, this, the sales  
14 representative, whoever he or she worked for, gave you the  
15 sheet; correct?

16 A. I got the sheet and I used it as a part of my informed  
17 consent process.

18 Q. And you got it from the sales representative who -- you  
19 asked for it and they handed it to you; correct?

20 A. Correct.

21 Q. And, so, there was nothing -- you know, the sales  
22 representative was not trying to hide or keep that information  
23 from you. All you had to do was ask for it; correct?

24 A. I asked for it in addition to the IFUs.

25 Q. Okay. So, in addition to the IFUs -- and we've been

—Walker - Cross - Adams—

1 calling them -- they're also called DFUs; correct? Directions  
2 for Use?

3 A. Right, right, Directions for Use.

4 Q. Okay, all right. Just so -- the jury's been hearing  
5 about DFUs. You know what -- Directions for Use are basically  
6 the same things as Instructions for Use?

7 A. Correct, sir.

8 Q. All right. So, you asked the sales representative  
9 sometime in February of 2011, "I want to see your DFUs and I  
10 also want to see the MSDS," and he gave it to you; correct?

11 A. I got my -- yes.

12 Q. All right. And then based upon that, after February of  
13 2011 you altered your practice; correct?

14 A. Yes, I changed my approach.

15 Q. All right. You changed your approach so instead of, you  
16 know, doing 50 slings a year, you offered slings as the last  
17 resort; is that correct?

18 A. I offered polypropylene slings, mesh slings as a last  
19 resort, sir. I had other options higher on my algorithm.

20 Q. All right. But prior to February of 2011 I think we've  
21 established that the option of the sling was your go-to  
22 option; correct?

23 A. It wasn't my go-to. I wouldn't use that phrase, sir,  
24 because I had other options in my toolbox.

25 Q. Okay. So, let's look at what you did -- I should have

—Walker - Cross - Adams—

1 brought this up earlier. I apologize, Your Honor, and Doctor.

2 Let's talk about the slings that you have placed.

3 Now, -- by the way, while I'm looking for something, I'll ask  
4 you a quick question. Now, you also treat people for  
5 over-active bladder syndrome; correct?

6 A. That's correct, sir.

7 Q. And we've already established that Ms. Wilson had stress  
8 urinary incontinence; correct?

9 A. You're asking me what is her current diagnosis, sir?

10 Q. No. You've agreed with me that Ms. Wilson met the  
11 criteria of somebody who had severe stress urinary  
12 incontinence; correct?

13 A. Yes, sir.

14 Q. All right. And that is a distinctly different condition  
15 than over-bladder -- over-active bladder syndrome; correct?

16 A. Yes, sir.

17 Q. Over-active bladder syndrome, there are actually drugs  
18 like Vesicare and some other drugs that are out there to treat  
19 that; correct?

20 A. That's correct, sir.

21 Q. And those drugs are not for use in treating stress  
22 urinary incontinence. Agreed?

23 A. I agree, sir.

24 Q. All right. So, as far as options that Dr. Bhanot had  
25 back at that time, there was no pharmacological or any drug

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1 option that he had to treat Ms. Wilson's severe stress urinary  
2 incontinence. Agreed?

3 A. I agree, sir.

4 Q. And you had -- when we go back and we talk about the  
5 placing of mesh slings, you testified before that prior to  
6 February of 2011 you had implanted or used approximately 40 to  
7 60 of Boston Scientific's slings; correct?

8 A. That's correct, sir.

9 Q. And besides Boston Scientific's slings, prior to February  
10 of 2011 you had used other manufacturers' slings; correct?

11 A. That's correct, sir.

12 Q. And you had used slings made by, made by Bard; correct?

13 A. That's not correct, sir.

14 Q. All right. Tell us the other manufacturers' slings that  
15 you used.

16 A. I only used Ethicon, Gynecare's TVT sling --

17 Q. Okay.

18 A. -- retropubic.

19 Q. Okay. So you used the retropubic TVT from Ethicon or  
20 Johnson & Johnson; correct?

21 A. That's correct, sir.

22 Q. And you also used Boston Scientific slings; correct?

23 A. That's correct, sir.

24 Q. And the Boston Scientific sling that you used,  
25 approximately 40 to 50 of them, it was what's known as the

—Walker - Cross - Adams—

1 Advantage sling; correct?

2 A. That's correct, sir.

3 Q. And the Advantage sling uses the exact same type of mesh  
4 as used in the Obtryx; correct?

5 A. It uses the same mesh but a different placement,  
6 different approach.

7 Q. Okay, agreed. The Advantage uses the retropubic or, or  
8 the loop that goes up --

9 A. Yes, sir.

10 Q. All right -- to attach behind the, the pubic bone;  
11 correct?

12 A. Yes, sir.

13 Q. And the Obtryx uses the transobturator approach; correct?

14 A. That's correct, sir.

15 Q. But other than the approach, the mesh is identical;  
16 correct?

17 A. The mesh is identical.

18 Q. And you know that with the Obtryx it has a detanged edge  
19 or heat-treated edge; correct?

20 A. Correct.

21 Q. And you know the purpose of that is to prevent fraying  
22 and particle loss; correct?

23 A. Correct, sir.

24 Q. And it does a good job of doing that; correct?

25 A. The detanged edge, if I recall, is in the mid portion



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1 adjacent to the urethra, not lateral. Am I correct, sir?

2 Q. Right. And the detanged edge prevents any type of  
3 fraying or particle loss in that area; correct?

4 A. In the area beneath the urethra, correct, sir.

5 Q. Right. And the prevention of fraying and particle loss  
6 is a good thing; correct?

7 A. A very good thing, sir.

8 Q. Right. And, so, Boston Scientific's innovation of having  
9 a detanged edge was something that attracted you to that  
10 product; correct?

11 A. I wouldn't, I wouldn't go as far as saying that because I  
12 also took into consideration the fact that the detanged edges  
13 are going to make the product stiffer. So, I knew that -- I'm  
14 not a biomedical engineer. I want to be very frank to the  
15 ladies and gentlemen of the jury. But the common sense, I  
16 knew that the portion that's detanged is beside the urethra.  
17 That's what I was explaining and I understood. Now, laterally  
18 the outsides were not detanged.

19 Q. Fair enough. But you would agree with me that that was  
20 an advantage to that type of mesh, that it prevented fraying  
21 and particle loss in the area of the urethra; correct?

22 A. In the -- yes, in the area of the urethra.

23 Q. The TVT did not do that; correct?

24 A. The TVT did not do that.

25 Q. Other products have not done that either; correct?

—Walker - Cross - Adams—

1 A. That's correct.

2 Q. And that's a good thing when you're in the area of the  
3 urethra; correct.

4 A. In the area, yes.

5 Q. Now, I believe you indicated too that of the 40 to 50  
6 Boston Scientific slings that you have actually implanted into  
7 a woman, into women, you are only aware of one single  
8 complication; correct?

9 A. Correct, sir, and that is a situation where because I'm  
10 in Orlando, Florida. The typical norm is that we take care of  
11 each other's complications. So, I was fortunate that my  
12 colleague, my friend called me and told me that she had  
13 identified one of my patients who had a mesh, a mesh exposure  
14 in the vagina.

15 I typically treat many other of my colleagues', their  
16 complications. And we never call each other or mention that  
17 to each other. So, I'm -- with that said, that I'm aware of  
18 only one. And that was through a colleague of mine.

19 I don't know -- I typically know that most patients in  
20 my population, they never go back to see me or their treating  
21 physicians if there's a complication. They go and seek help  
22 elsewhere.

23 Q. That's your speculation, though; correct?

24 A. That's my experience because I see a lot of my  
25 colleague's patients who see me and they don't go on to see

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1 their implanting physicians.

2 Q. Let's go to your deposition. And this is on Page 26,  
3 Line 22. Let me know when you get there, Doctor.

4 A. Yes, sir.

5 Q. Okay?

6 A. I'm here now, sir.

7 Q. All right. And if you will look at Line 22, we were  
8 talking about this topic. And there was -- on Line 21 it  
9 says, "Yeah," and you finished your answer. You said, "Doing  
10 these types of procedures. So, in my hands, sir, I know if  
11 one complication of my patients that I was advised of. So,  
12 I'm sure there are many more out there."

13 Question: "Well, but that would be speculation,  
14 wouldn't it?"

15 Answer: "That's speculation, so I don't want to  
16 speculate."

17 Did I read that correctly?

18 A. That's correct, sir.

19 Q. Okay. So, we've established that your history of using  
20 the Advantage was that you put in 40 to 50; correct?

21 A. Correct, sir.

22 Q. And you know about one complication; correct?

23 A. Correct, sir.

24 Q. And the complication that you were advised of, that did  
25 not require any type of removal of the mesh; correct?

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1 A. No, sir, it required a surgical removal.

2 Q. Okay. And we have been talking about complications with  
3 mesh a little bit. Now, not all complications of mesh such as  
4 an exposure require removal of the mesh; correct?

5 A. Correct.

6 Q. And when we talk about Ms. Wilson's case, you believe  
7 that she had what is called exposure of the mesh; correct?

8 A. Correct, sir.

9 Q. And exposure involves a situation where the vaginal  
10 tissue is no longer -- it has receded and actually created a  
11 situation where the mesh is exposed; correct?

12 A. That's correct, sir.

13 Q. And, so, what's happened is that the tissue through the  
14 process of thinning out is no longer on top and the mesh then  
15 is exposed; correct?

16 A. So, in her situation, sir, the bristles are working its  
17 way through. It's like this (indicating).

18 Q. All right. But, again, in your deposition you describe  
19 that as a process of exposure; correct?

20 A. Correct, sir. It's exposed.

21 Q. And exposure means -- if this was the vaginal tissue or  
22 the vaginal mucosa, the exposure involves basically the mucosa  
23 thinning out to expose where that mesh is located; correct?

24 A. Correct, it's exposed, yes.

25 Q. All right. Now, Ms. Wilson, you know that -- how old is

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1 she? Do you know?

2 A. Forty-seven years old.

3 Q. All right. And you know that she's been going through  
4 menopause; correct?

5 A. Correct, sir.

6 Q. And you know that women, when they go through menopause,  
7 that affects their vaginal mucosa or vaginal tissue; correct?

8 A. Correct, sir.

9 Q. And part of that process is that that tissue will  
10 actually start to thin out; correct?

11 A. Correct, sir. Atrophy occurs.

12 Q. It is called atrophy. And another word for it is  
13 atrophic vaginitis; correct?

14 A. Yes, sir.

15 Q. So, atrophic vaginitis is a condition that some women  
16 have where that mucosa will actually start to thin out. And  
17 then if they have mesh, it will be exposed. Correct?

18 A. That's correct.

19 Q. And in order to treat atrophic vaginitis, doctors like  
20 yourself prescribe estrogen therapy; correct?

21 A. That's correct. That's one of the options.

22 Q. And estrogen therapy can involve simply taking a pill;  
23 correct?

24 A. Correct, it can include taking a pill.

25 Q. And besides taking a pill, some other options are

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1 estrogen cream; correct?

2 A. Correct, sir.

3 Q. So, if a woman has this condition that comes with  
4 menopause -- and you'll agree with me it's a common condition;  
5 correct?

6 A. Vaginal atrophy?

7 Q. Yes.

8 A. Yes, it is common, sir.

9 Q. It's common in women as they get older; correct?

10 A. Correct, sir.

11 Q. And in order to treat that condition, doctors like  
12 yourself will prescribe either a pill or vaginal estrogen  
13 cream; correct?

14 A. That's correct, sir.

15 Q. And both of those treatments are effective at reducing or  
16 eliminating problems caused by atrophic vaginitis; correct?

17 A. That's correct, sir.

18 Q. And, now, in your review -- in your two and a half hours  
19 spending with Ms. Wilson, did she inform you that she had  
20 actually been prescribed estrogen therapy but declined to take  
21 it?

22 A. That's correct, sir.

23 Q. You knew that?

24 A. I knew that.

25 Q. And did you know when she was prescribed that therapy and

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1 declined to take it?

2 A. I don't recall the specific date it was done, sir, but I  
3 was aware of the surrounding situation.

4 Q. And, so, she took no pill for the atrophic vaginitis;  
5 correct?

6 A. Correct.

7 Q. And she did not use any type of estrogen cream for the  
8 atrophic vaginitis; correct?

9 A. Correct, sir.

10 Q. And you know that women who have experienced an exposure,  
11 many times doctors are able to simply treat that through  
12 estrogen cream or the use of estrogen; correct?

13 A. To treat an exposure, I wouldn't go as far as saying many  
14 times, sir.

15 Q. But it works in some cases?

16 A. In some cases, yes, sir.

17 Q. All right. And you're not aware of any doctor that has  
18 prescribed after this exposure was noted -- well, let me go  
19 back. You would agree with me that nowhere in the treating  
20 physician's records is there any notation of an exposure or  
21 erosion of the mesh; correct?

22 A. Correct, sir.

23 Q. You're the first one who found it May 2nd of 2014;  
24 correct?

25 A. Correct, sir.

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1 Q. And you'll agree with me that, therefore, there is no  
2 mention by any doctor in any record or deposition stating that  
3 they prescribed estrogen again after some exposure was found;  
4 correct?

5 A. That's correct, sir.

6 Q. And, Doctor, going back to your examination of Ms.  
7 Wilson, when you said that when you did her pelvic examination  
8 and found the tenderness, you never said in your deposition  
9 that she acted like she was going to jump off the table;  
10 correct?

11 A. I don't recall that statement, sir, but that is what --  
12 she was in a lot of pain.

13 Q. All right. Let's go, let's go to Page 79, Line 4. Let  
14 me know when you get there.

15 A. Yes, sir.

16 Q. And you can see that we're in the area of talking about  
17 your examination of her vagina; correct?

18 A. Yes, sir.

19 Q. Question: "The tenderness you touched?"

20 Answer: "During palpation, during the examination, as  
21 I gently palpated the area, then she voiced to me that she was  
22 now having, she was experiencing pain radiating upwards into  
23 the abdominal quadrant. So, I asked her, 'Is that the pain,  
24 the abdominal pain that you keep describing?' And she said,  
25 'Yes, that's the pain.'"



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1 Did I read that correctly?

2 A. You did, sir.

3 Q. All right. So, you actually had to ask her if this was  
4 the area of the pain; correct?

5 A. Correct. Would you like me to explain this further to  
6 you, sir?

7 Q. No, sir. My simple point is, at the time of your  
8 deposition when you gave your opinions, you did not describe  
9 her pain as her jumping off the table or reacting in that  
10 manner; correct?

11 A. That's correct, at the time of the deposition.

12 Q. Now, let's talk about the usage of slings. And to be  
13 fair, I'm going to put back up here that -- okay. We've  
14 already established that you changed after this conference  
15 where you heard about issues with mesh and that around the  
16 same time you got the MSDS and the IFU; correct?

17 A. Yes, sir.

18 Q. And then your practice changed so that you began to -- as  
19 your first line of treatment for a woman with severe stress  
20 urinary incontinence, you offer an option of  
21 electro-stimulation; correct?

22 A. That's one of the options, sir, one of my first options.

23 Q. All right. And you talked about how you had an  
24 algorithm; correct?

25 A. That's correct, sir.

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1 Q. So, you go from first option, second option, third  
2 option, fourth option?

3 A. That's correct, sir.

4 Q. The first option is electro-stimulation; correct?

5 A. Electro-stimulation and/or transurethral bulking --

6 Q. Okay.

7 A. -- using carbon beads.

8 Q. Okay. So, we've got one option which is the  
9 electro-stimulation. Two option is the bulking. Correct?

10 A. Correct, sir.

11 Q. And the third option that you have is the use of an  
12 operation involving a cadaver tissue sling; correct?

13 A. That's correct, sir, using a human tissue harvested from  
14 a human being. And I put that tissue beneath the urethra in  
15 the form of a sling.

16 Q. All right. And the product that you've used is actually  
17 a type of modified cadaver tissue that is sold by a company  
18 called Coloplast; correct?

19 A. That's correct, sir.

20 Q. You used the product that is called the Suspend; correct?

21 A. That's correct, sir.

22 Q. And you know that the Suspend is made out of material  
23 that Coloplast calls tutoplast; correct?

24 A. I'm not aware of that, sir.

25 Q. All right. Now, when you implant these, this cadaver

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1 tissue -- do you keep up on the literature regarding products  
2 like the Coloplast Suspend product that you implant in women?

3 A. I -- first of all, I evaluate the source. For me, I  
4 would like to make sure I'm implanting a product from a human  
5 being versus from a pig versus from a cow.

6 So, I like the Suspend because it was the source of --  
7 was from a human being from the side of the leg, the side of  
8 the leg of a human being. And using the, what we call a  
9 fascia lata, we are able to -- the company harvests that and  
10 makes it into a sling, sir.

11 Q. Okay. And I think we've established that potentially  
12 your third option is to use the Suspend Coloplast sling;  
13 correct?

14 A. That's correct, sir.

15 Q. And I'll write it down there. That's cadaver tissue;  
16 correct?

17 A. That's correct, sir.

18 Q. To be fair, I wrote "cadaver;" correct? Hopefully I  
19 spelled it right.

20 A. That's perfect.

21 Q. All right. So, when these options -- if you go through  
22 those, then your fourth option is the use of polypropylene  
23 mid-urethral slings; correct?

24 A. That's correct, sir.

25 Q. And, so, even today you still implant polypropylene

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1 mid-urethral slings; correct?

2 A. As my last resort, yes, sir, that's correct.

3 Q. And isn't it true also that approximately two months  
4 before your examination of Ms. Wilson in May of 2014 you  
5 implanted a Boston Scientific Advantage sling?

6 A. That's correct, sir. I was at the Florida hospital and  
7 was -- in the case I requested to have a mid-urethral sling  
8 brought to me because the lady also had stress urinary  
9 incontinence. And I specifically requested the nurse,  
10 circulating nurse to bring the Altis, the A-l-t-i-s sling.

11 She then advised me that the hospital has a  
12 preferential purchase agreement with Boston Scientific. And,  
13 so, I was not able to get this sling that I requested. She  
14 said, "The only sling that we have available for you to use  
15 are the Boston Scientific --" the Boston Scientific sling is  
16 the only one she had, transobturator or the retropubic  
17 approach.

18 So, I then, with the patient asleep under general  
19 anesthetic, had to make a decision quickly what do I do. And  
20 I took the decision, after telling my patient and prior with  
21 her, giving her informed consent, I made the medical decision  
22 to proceed with implanting a Boston Scientific retropubic  
23 Advantage sling.

24 Q. Okay, fair enough. When we started this conversation  
25 with just two months before you saw Ms. Wilson, you agreed you

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1 put an Advantage sling into one of your patients; correct?

2 A. Correct, sir.

3 Q. You didn't, you didn't call a time-out and say, "You know  
4 what. I think this product is dangerous. I'm not going to  
5 put it in a woman." Correct?

6 A. I did not. She was under anesthesia and I moved forward  
7 and implanted the sling.

8 Q. Okay. And let's talk about bulking. Now, bulking  
9 therapy involves injection of some type of carbon type  
10 material into the area underneath the urethra; correct?

11 A. To be precise, sir, if you imagine the urethra is a tube,  
12 a piece of pipe. Imagine a tube at the 3:00 and  
13 9:00 positions. And you're trying to tighten up that tube to  
14 make it tighter to prevent the urine from escaping.

15 Q. Fair enough. And you'll agree with me that there are  
16 doctors who believe that bulking is not effective in treating  
17 stress urinary incontinence; correct?

18 A. Correct. There are some who don't like to do bulking.

19 Q. And cadaver tissue. Now, this Suspend product from  
20 Coloplast, have you familiarized yourself with the scientific  
21 literature on the effectiveness of cadaver tissue, and  
22 specifically the Suspend product, when it is implanted inside  
23 of women by doctors like you?

24 A. I have read extensively in my universal reading regarding  
25 the use of valid slings, sir, the Suspend.

—Walker - Cross - Adams—

1 Q. All right. And one of the reasons that you do that is  
2 you'll agree with me that a doctor like yourself has an  
3 obligation to keep up on the scientific literature; correct?

4 A. Yes, sir, it's my duty.

5 Q. And it's your duty, and doctors like Dr. Bhanot who  
6 treated Ms. Wilson also have that duty and he fulfilled that  
7 duty; correct?

8 A. As far as I could see from reviewing the medical records,  
9 sir, yes.

10 Q. All right. And out in the scientific literature you  
11 would agree with me that there are literally over 2,000  
12 articles, scientific articles talking about the safety and  
13 effectiveness of polypropylene mid-urethral slings; correct?

14 A. Those articles are -- that is correct.

15 Q. All right. And, by the way, when we go through your past  
16 history, you mentioned that you, you did your fellowship at  
17 the University of Kansas with Dr. Krantz; correct?

18 A. Correct, sir, I did my training with him.

19 Q. And you know that at the University of Kansas even now,  
20 the choice for treating stress urinary incontinence is the use  
21 of a polypropylene mid-urethral sling; correct?

22 A. I'm not aware of what's happening there now, sir.

23 Q. But you know at the universities that you teach at,  
24 Florida State University, that they use polypropylene  
25 mid-urethral slings; correct?

—Walker - Cross - Adams—

1 A. Yes. It's taught in the curriculum as an option.

2 Q. Not only is it taught in the curriculum, but at the  
3 hospitals they have on the shelves and they use polypropylene  
4 mid-urethral slings in operations; correct?

5 A. They do.

6 Q. And also that's true of Central Florida. They use  
7 polypropylene mid-urethral slings; correct?

8 A. That's correct, sir.

9 Q. And for folks who are not from the Orlando area, the  
10 University of Central Florida is a large institution; correct?

11 A. That's correct, sir.

12 Q. It has -- I believe 45,000 students attend that  
13 university?

14 A. Yes, and 100 medical students.

15 Q. All right. It's a well respected university right up at  
16 par with Florida State; correct?

17 A. Yes, sir.

18 Q. And both of those universities use polypropylene slings;  
19 correct?

20 A. As a part of the curriculum. They incorporate the use of  
21 it as a part of their curriculum.

22 Q. All right. Now, I can, I can take the time to pull this  
23 article, but let me just ask you if you're familiar with it.  
24 Are you familiar with an article published in the *Plastic and*  
25 *Reconstructive Surgery Journal* entitled "The Use of Biological

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1 Materials and Urogynecologic Reconstruction, a Systematic  
2 Review?" Are you familiar with that?

3 A. No, sir. I'd appreciate if you'd show me the article.

4 Q. I will. I will. What about another article by an author  
5 named Huang, and it's H-u-a-n-g, 2001, in the *Journal of*  
6 *Urology* entitled "High Failure Rate Using Allograft Fascia  
7 Lata in Pubovaginal Sling Surgery." Have you -- are you  
8 familiar with that article?

9 A. No.

10 Q. Okay, fair enough. Let me get that.

11 THE COURT: Counsel, I want to give the jury a  
12 recess --

13 MR. ADAMS: Yes, ma'am.

14 THE COURT: -- at an appropriate time.

15 MR. ADAMS: Now is --

16 THE COURT: In other words, I don't want to interrupt  
17 your train of thought, but I want to give it to them.

18 MR. ADAMS: Okay. Thank you very much. I think now  
19 would be perfect. I will show them the articles after the  
20 break.

21 THE COURT: All right.

22 Ladies and gentlemen of the jury, I'm going to give  
23 you your morning recess. While you're out, do not discuss  
24 this case among yourselves or permit anyone to discuss it with  
25 you or in your presence. And please be in your jury lounge at



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1 five minutes after the hour.

2 (A recess was taken from 10:47 a.m. to 11:05 a.m.)

3 (The Jury entered the courtroom at 11:05 a.m.)

4 COURT SERVICES OFFICER: All rise.

5 THE COURT: Mr. Adams?

6 MR. ADAMS: Thank you, Your Honor. May it please the  
7 Court.

8 THE COURT: Yes, sir.

9 (CONTINUED CROSS-EXAMINATION OF DR. WALKER BY MR. ADAMS:)

10 Q. All right, Doctor, before our break, we were just talking  
11 about various articles. Before we get there, though, you  
12 would agree with me that most doctors who treat women with  
13 stress urinary incontinence consider the polypropylene  
14 mid-urethral sling to be the gold standard, correct?

15 A. The terminology "gold standard" really is an expression  
16 that we are not taught in medical school. I wasn't taught  
17 that. Each patient is treated individually and that's how I  
18 was taught. But, yes, the mid-urethral sling is definitely an  
19 option that is taught to all of my colleagues and young  
20 doctors who are in training, yes, sir.

21 Q. Fair enough.

22 Do you have your deposition up there?

23 A. What -- yes, sir. What page would you like me to refer  
24 to?

25 Q. Let's look at Page 130, Line 6. Let me know when you get

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1 there, please.

2 A. 130?

3 Q. Are you there, Doctor?

4 A. Okay, sir, yes, I'm here.

5 Q. Okay.

6 "QUESTION: Most doctors who treat women with stress  
7 urinary incontinence consider the mid-urethral sling to be the  
8 gold standard; is that fair?

9 "ANSWER:" -- this is you -- "So most doctors consider  
10 it to be the gold standard, that's fair."

11 Did I read that correctly?

12 A. Correct.

13 Q. And you are a member of various societies like the  
14 American Urogynecological Society, correct?

15 A. That's correct, sir.

16 Q. That's called AUGS, correct?

17 A. That's correct, sir.

18 Q. The jury has already heard about the AUGS statement. You  
19 are familiar with that statement, correct?

20 A. Yes, sir.

21 Q. That also says that polypropylene mid-urethral slings are  
22 considered to be the gold standards for -- for doctors in your  
23 field, correct?

24 A. That's what the position statement states, that's  
25 correct, sir.

—Walker - Cross - Adams—

1 Q. And you are a member of another group called the  
2 International Urogynecologic -- Urogynecology Association,  
3 correct?

4 A. That's correct, sir.

5 Q. That's also called the IUGA, correct?

6 A. Correct, sir. IUGA.

7 Q. All right. And that is a prestigious organization of  
8 doctors like yourself, not just on a local United States  
9 basis, but internationally meet and confer on issues like  
10 stress urinary incontinence, correct?

11 A. That's correct, sir.

12 Q. And you are a member of that prestigious organization,  
13 correct?

14 A. Yes, sir, I'm a member.

15 Q. And you attend meetings, correct?

16 A. I do, sir.

17 Q. And you are familiar -- well, and you recognize  
18 information put out by the IUGA, the International  
19 Urogynecological Association, to be reliable and  
20 authoritative, correct?

21 A. I take it into consideration, sir.

22 Q. Okay. And, well, obviously, the information they put out  
23 is reliable, you'll agree with that, correct?

24 A. I will agree, sir, it's reliable.

25 Q. Okay. And let me show you what has been marked as

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1 defendant's Exhibit 173.

2 MR. ADAMS: May I approach, Your Honor?

3 THE COURT: Yes, sir.

4 BY MR. ADAMS:

5 A. Okay, sir.

6 Q. And you're familiar with this document, correct?

7 A. That's correct, sir.

8 MR. ADAMS: All right. Your Honor, may I publish it,  
9 173?

10 THE COURT: Yes, sir.

11 MR. ADAMS: Thank you.

12 (The document was published to the jury.)

13 BY MR. ADAMS:

14 Q. This is the International Urogynecological Association,  
15 this prestigious organization that you're a member of,  
16 correct?

17 A. That's correct, sir.

18 Q. And the document is "Position statement on mid-urethral  
19 slings for stress urinary incontinence." Did I read that  
20 correctly?

21 A. You read it per- -- correctly.

22 Q. And if we go to the first paragraph, it says, "the IUGA  
23 --" IUGA " -- supports the use of mid-urethral slings as one  
24 of the options for surgical management of female stress  
25 urinary incontinence which is the type of urinary leakage

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1 associated with physical exertion and coughing, laughing,  
2 exercise." Correct?

3 A. Correct, sir.

4 Q. And this statement, like the AUGS statement, is referring  
5 to polypropylene mid-urethral slings, similar to the Obtryx  
6 and the TVT that you used to use, correct?

7 A. That's correct, sir.

8 Q. And if we go to the next paragraph -- it would be the  
9 third one, Jen; you can pull up the highlighted material.

10 It says, "They have been shown to be as effective as  
11 more invasive traditional surgery with major advantages of  
12 shorter operating and admission times, and a quicker return to  
13 normal activities together with lower rates of complications.  
14 This has resulted in MUS becoming the operation of choice in  
15 Europe, Asia, South America, South Africa, Australasia, and  
16 North America for treatment of SUI with several million  
17 procedures performed worldwide." Did I read that correctly?

18 A. You read it perfectly.

19 Q. And you know Australasia includes Australia, New Zealand,  
20 and also a couple of island chains down in that area, correct?

21 A. That's correct, sir.

22 Q. That's not a typo. That's actually a reference to that  
23 part of the world, the lower hemisphere around Australia,  
24 correct?

25 A. That's correct, sir.

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1 Q. And so we have doctors, not just in the United States who  
2 consider this the gold standard, but doctors worldwide are  
3 considering polypropylene mid-urethral slings as the gold  
4 standard, correct?

5 A. That's what -- that's -- that's correct, sir.

6 Q. And then the last paragraph, the second-to-the-last  
7 paragraph, it says, "There is robust evidence to support the  
8 use of mid-urethral slings from over 2,000 publications making  
9 this treatment the most extensively reviewed and evaluated  
10 procedure for female stress urinary incontinence now in use."  
11 Did I read that correctly?

12 A. You read it perfectly, sir.

13 Q. And then down at the bottom, if we could blow up the last  
14 paragraph, it says, "As a result, IUGA" -- that's the group  
15 you're in, correct?

16 A. That's correct, sir.

17 Q. -- "supports the use of monofilament polypropylene  
18 mid-urethral slings for the surgical treatment of female  
19 stress urinary incontinence." Did I read that correctly?

20 A. You did a perfect job reading it, sir.

21 Q. Thank you.

22 And now let's talk about the cadaver tissue that you  
23 use in your procedures. You -- we talked before the break and  
24 you had mentioned about you keep up with the scientific  
25 literature on the products that you use in your patients,

—Walker - Cross - Adams—

1 correct?

2 A. Yes, sir.

3 Q. And I had mentioned this article by Haung, and I don't  
4 believe that you were -- at least familiar with it at the time  
5 I asked you, correct?

6 A. Right. I would be happy to review it, sir.

7 Q. That would be fine.

8 And you recognize the *Journal of Urology* as a reliable  
9 group that publishes reliable papers, correct?

10 A. Yes, sir.

11 Q. And let me show you what is marked as defendant's Exhibit  
12 1533.

13 A. Thank you.

14 Q. I will provide a copy to Mr. Monsour.

15 This article that is published from out of the *Urology*  
16 *Journal*, is entitled "High failure rate using allograph fascia  
17 lata in pubovaginal sling surgery for female stress urinary  
18 incontinence." Did I read that correctly?

19 A. That's perfectly correct, sir.

20 Q. Right.

21 You're familiar with this journal, and it is recognized  
22 as authoritative and reliable in your field, correct?

23 A. The journal is, sir.

24 Q. All right.

25 MR. ADAMS: And, Your Honor, may I publish 1533?

—Walker - Cross - Adams—

1 THE COURT: Any objection to it, Mr. Monsour?

2 MR. MONSOUR: No, Your Honor.

3 THE COURT: Yes, sir, Mr. Adams.

4 MR. ADAMS: Thank you, ma'am.

5 (The document was published to the jury.)

6 BY MR. ADAMS:

7 Q. Let's look at this article. I have already read the  
8 title of it, and let's go down -- well, let's first spend a  
9 little time on the title. You can see that the doctors here  
10 who published this article, they are actually from China,  
11 correct?

12 A. That's correct, sir.

13 Q. All right. And, again, you recognize, as being a member  
14 of IUGA, there are well-trained doctors like yourself, all  
15 around the world, who study the safety and effectiveness of  
16 different procedures used to treat stress urinary  
17 incontinence, correct?

18 A. That is correct, sir.

19 Q. All right. So you would never -- the fact that some  
20 doctor is from China or maybe the doctor is from Turkey, you  
21 would never, just on its face, minimize or belittle the study,  
22 correct?

23 A. I would never belittle anyone, sir.

24 Q. All right. Let's look at the abstract real quick.

25 It says, "Objectives: To present our unfavorable



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1 experiences using allograft fascia lata. Allograft fascia  
2 lata is an attractive sling material providing less pain, a  
3 shorter operation time, and a reported effectiveness equal to  
4 autologous fascia." Did I read that correctly, although  
5 inartfully?

6 A. That's correct, sir.

7 Q. All right. And you can see that they did a study on 18  
8 women, correct?

9 A. That's correct. Only 18 women.

10 Q. Yeah. And then under results, it says, "All patients  
11 were followed up for a mean of 9.2 months. 13 patients  
12 considered the surgery successful or to have provided  
13 improvement, with a mean of 82.5 percent subjective  
14 improvement. Five patients, or 27 percent, had significant  
15 failure with full recurrence of incontinence within three to  
16 six months." Did I read that correctly?

17 A. You read it perfect, sir.

18 Q. All right. And you commented on the 18 women involved in  
19 the study. Do you remember that? You said, oh, only 18  
20 women?

21 A. That's correct, sir.

22 Q. And so one of the things when you look at a study that  
23 involves even 30 women or 29 or 18, you've got to look at the  
24 number of people involved because that may affect the results;  
25 fair?

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1 A. That's fair, sir.

2 Q. And it says, "Conclusions: Solvent dehydrated  
3 gamma-irradiated allograft fascia is not reliable in  
4 pubovaginal sling surgery. The high failure rates within a  
5 short period prohibit its use in the operative management of  
6 stress urinary incontinence." Did I read that correctly?

7 A. You read it perfectly, sir.

8 Q. Now, do you know, under "Conclusions," when it's talking  
9 about the dehydrated gamma-irradiated allograft fascia, do you  
10 know what particular product that they're talking about?

11 A. It -- they are not mentioning any specific product that I  
12 know of. But let me rephrase.

13 I know the product I use, the Suspend fascia lata, goes  
14 through a similar process --

15 Q. Fair enough.

16 A. -- to repair the tissue.

17 Q. And, in fact, you're familiar with the fact that the  
18 Suspend product that you use is what is described as a  
19 Tutoplast processed Suspend fascia lata, correct?

20 A. That's correct, sir.

21 Q. And it is dehydrated gamma-irradiated cadaver tissue,  
22 correct?

23 A. That's correct, sir.

24 Q. And the name for the actual material, before it's cut  
25 into strips for SUI treatments, is called Tutoplast, correct?

—Walker - Cross - Adams—

1 A. That's a generic name. I'm really not familiar with  
2 these generic terms, sir, but I can see it here.

3 Q. Right.

4 A. The company calls it Tutoplast.

5 Q. Okay. And I have given you information from the  
6 Coloplast website.

7 A. Exactly, you have.

8 Q. And that's information on the exact product you use,  
9 correct?

10 A. That's correct, sir.

11 Q. The base material is called Tutoplast, correct?

12 A. That is correct.

13 Q. And so if we look down at this article --

14 MR. MONSOUR: Do you have a copy?

15 MR. ADAMS: I do.

16 MR. MONSOUR: Thank you.

17 MR. ADAMS: Certainly.

18 BY MR. ADAMS:

19 Q. If we look down at this article with the conclusion about  
20 the high failure rates, and we look at "Materials and  
21 Methods"?

22 A. Yes, sir.

23 Q. Can we blow that up, "Materials and Methods"? The first  
24 paragraph on the first page, down at the bottom, over to the  
25 right-hand side.

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1           It says, "From March 1999 to July 1999, 8 [sic] women"  
2 -- it gives their ages -- "with SUI received pubovaginal sling  
3 surgery using allograft fascia lata, Tutoplast. The mean  
4 duration of incontinence was 8.2 years." Did I read that  
5 correctly?

6   A. That's correct, sir.

7   Q. And let's go over to the "Results," first paragraph, on  
8 the next page, down at the bottom.

9   A. Okay, sir.

10   Q. We talked about how there were 18 patients, and it says,  
11 "The remaining five patients, 27.8 percent, considered the  
12 surgery a failure." Did I read that correct?

13   A. No, you read it perfectly correctly, sir.

14   Q. Let's go to -- underneath "Comment", the second  
15 paragraph. It says, "Our experience had a high failure rate,  
16 27.8 percent, in sling surgery using solvent dehydrated  
17 gamma-irradiated allograft fascia lata" -- that's the  
18 Tutoplast Suspend product you use, right?

19   A. Yes, sir.

20   Q. -- "within a short period. Because of the unacceptably  
21 high failure rate in such a short period, we stopped using  
22 allograft as a sling material." Did I read that correctly?

23   A. You read it perfectly, sir.

24   Q. And then underneath the "Conclusions," if we could go up  
25 to the paragraph that says, "The primary object." It's up

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1 above that, Jen, above conclusions. Next one. There you go.

2 It says, "The primary objective of allograft fascia is  
3 to serve as a scaffold for the ingrowth of host tissue that  
4 result in replacement of the allograft. Such results have  
5 been well documented in reconstructive cruciate ligaments."  
6 Those are knees, correct?

7 A. That's correct, sir.

8 Q. Okay. So with allografts, one of the things that they  
9 are doing is taking studies from a different part of the body  
10 such as a knee and extrapolating information from those  
11 studies on the knee to the area of the urethra, correct?

12 A. I'm not understanding --

13 Q. It's probably a poor question. Let me reword it.

14 When they're talking about results, they say, "Such  
15 results have been well documented in reconstructing cruciate  
16 ligaments," which are knees, correct?

17 A. Yes, sir.

18 Q. All right. And then it goes on to say, "However, we  
19 still do not know why some of the allografts used in sling  
20 surgery fail to mature into a viable and functioning support  
21 structure," correct?

22 A. Yes, sir, that's what it says.

23 Q. And then when we get down to "Conclusions," it  
24 says, "Because of the high failure rate using solvent  
25 dehydrated gamma-irradiated allograft fascia lata" -- again,

—Walker - Cross - Adams—

1 that's your Suspend, right?

2 A. That's right, sir.

3 Q. -- "in pubovaginal sling surgery within a short period,  
4 we consider this material unreliable for sling operations.  
5 Our results prevent us from using this material further in  
6 pubovaginal sling surgery for SUI in women." Did I read that  
7 correctly?

8 A. You read it perfectly, sir.

9 Q. Okay. And, obviously, you believe that you have had  
10 different results with your Suspend product, correct?

11 A. Yes, sir. I have operated on hundreds of patients. Not  
12 only 18 patients. Hundreds.

13 Q. Okay.

14 A. And I have been blessed to get very good results.

15 Q. Okay. So, in other words, a doctor, despite what a study  
16 says, in your hands, you believe that the Suspend product is  
17 safe and effective, correct?

18 A. It's safe, it's effective, and I implant it in the  
19 mid-urethra.

20 Q. All right.

21 A. Not close to the bladder neck as described in this study,  
22 published in 2001,, and so in my hands, sir, with great  
23 humility, I get very good results.

24 Q. And doctors use a variety of different products. We have  
25 already talked about mid-urethral slings, cadaver tissue,

—Walker - Cross - Adams—

1 correct?

2 A. Yes. I use a mid-urethral sling from cadaver tissue.

3 Q. Right. And each doctor like yourself has to use their  
4 own clinical experience in deciding what is the safest and  
5 most effective option for their patient, correct?

6 A. That's correct, sir.

7 Q. And you certainly would not deny that right to  
8 Dr. Bhanot, Dr. Lassere or Dr. Luby, correct?

9 A. I'm not understanding what you're asking me. I'm sorry,  
10 sir. Please, would you rephrase?

11 Q. Those West Virginia doctors are entitled to rely upon  
12 their own clinical experience in deciding what is a safe and  
13 effective product to use in their patients, correct?

14 A. Oh, yes, sir.

15 Q. You're not criticizing that, correct?

16 A. Oh, no, sir. I would never do that.

17 Q. And there is a recent article, too, and we don't have to  
18 spend much time on it, but there is an article also on fascia  
19 lata material. You are familiar with the *Journal For*  
20 *Urogynecologic Reconstruction*, correct?

21 A. Yes, sir.

22 Q. That's a well-recognized peer-reviewed journal that puts  
23 out reliable information, correct?

24 A. Yes, sir.

25 Q. And I'm going to hand you what has been marked as 1265.

—Walker - Cross - Adams—

1 MR. ADAMS: Your Honor, may we publish this?

2 THE COURT: Any objection, counsel?

3 MR. MONSOUR: No objection.

4 THE COURT: All right. Yes, Mr. Adams.

5 MR. ADAMS: Thank you, ma'am.

6 (The document was published to the jury.)

7 BY MR. ADAMS:

8 Q. If we look at 1265 --

9 A. Yes, sir.

10 Q. -- this is an article that was published in 2012,  
11 correct?

12 A. Yes, sir.

13 Q. If we look down on the copyright, we see Copyright 2012  
14 by the American Society of Plastic Surgeons, and then also  
15 that says received for publication February 13th, 2012,  
16 correct?

17 A. Yes, sir.

18 Q. All right. And if we look at the summary, just if we  
19 could go down to "Contrary." It says, "Contrary to prior  
20 assumptions that biologic grafts add tissue strengths without  
21 graft-related complications, there appears to be no benefit to  
22 the use of biological materials for prolapse" -- and we're not  
23 going to talk about that -- "and incontinence surgery," which  
24 we are going to talk about. Did I read that correctly?

25 A. You read it correctly, sir.



—Walker - Cross - Adams—

1 Q. And what this article is, sir, it's referred to what's  
2 known as a meta-analysis. You know what a meta-analysis is?

3 A. Yes, sir.

4 Q. A meta-analysis is where researchers will gather together  
5 and review hundreds of articles or a large quantity of  
6 articles to draw conclusions based upon the consensus in those  
7 articles; fair?

8 A. Fair.

9 Q. And if we go down to the paragraph where it says, "The  
10 purpose." It says, "The purpose of this article is to review  
11 the evidence behind biologic graft use in urogynecological  
12 reconstruction as compared with native tissue and synthetic  
13 mesh repairs. We focus on anatomical success and  
14 graft-related complications, with an emphasis on randomized  
15 controlled trials and cohort studies. Large series are" --  
16 "Large series are discussed when limited published literature  
17 is available." Did I read that correctly?

18 A. You read it perfectly correctly, sir.

19 Q. And then if we look over, there is a section of this  
20 article dealing with slings. And that it's on the next page.  
21 And if we could just review the -- the next page right  
22 underneath slings, if we can blow this up.

23 It says, "Surgical management of stress urinary  
24 incontinence has evolved as retropubic colposuspensions and  
25 slings replaced inferior needle suspensions and pubourethral

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1   ligament plication. The advent of the tension-free  
2   mid-urethral sling in 1996 revolutionized care, making this  
3   minimally invasive outpatient synthetic sling the preferred  
4   primary treatment for stress incontinence." Did I read that  
5   correctly?

6   A. You read it correctly, sir.

7   Q. So, and we've already established that you've agreed with  
8   me that the polypropylene sling is considered by the majority  
9   of physicians as the gold standard. Do you remember that?

10   A. Okay.

11   Q. Correct?

12   A. I remember that.

13   Q. And that article discusses how it's the preferred  
14   treatment, correct?

15   A. Yes, sir.

16   Q. And it goes down and it says, "Retropubic and  
17   transobturator mid-urethral slings are durable, effective, low  
18   risk, and allow rapid return to normal daily activity.  
19   Traditional autologous fascia lata and rectus fascia bladder  
20   neck slings are now reserved to treat failures or used in  
21   cases where synthetic mesh is contraindicated" -- let's go  
22   over to the next -- "because they are more invasive and have a  
23   greater risk of postoperative voiding dysfunction. Biological  
24   grafts have also been used in an attempt to decrease the small  
25   mesh risk." Did I read that correctly?

—Walker - Cross - Adams—

1 A. You read it perfect, sir.

2 Q. And, again, what they are -- what they -- one of the  
3 things that they are stating is, is that autologous fascia  
4 lata is reserved to treat failures where synthetic mesh is  
5 contraindicated because fascia lata is more invasive and it  
6 has a greater risk of postoperative voiding dysfunction,  
7 correct?

8 A. That's what they mention here, sir, correct.

9 Q. And then if we go to the -- Page 245S.

10 A. 245S. Yes, sir.

11 Q. Underneath the paragraph that says, "A recent  
12 meta-analysis."

13 A. Yes, sir.

14 Q. Let's go down below. Yeah, you had it. "We believe."  
15 I'm sorry.

16 It says, "We believe that a polypropylene tension-free  
17 mid-urethral sling is the preferred primary treatment for  
18 stress incontinence. Autologous fascia and porcine dermal  
19 slings should be considered for primary repairs when synthetic  
20 mesh is contraindicated." Did I read that correctly?

21 A. You read it perfectly, sir.

22 Q. All right. And the autologous fascia includes the  
23 Suspend device that you use, correct?

24 A. That's correct, sir.

25 Q. And it goes on to say, "Autologous fascia slings are an

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1 excellent option for recurrent or persistent stress  
2 incontinence. There are insufficient data to support the use  
3 of cadaveric fascia lata slings over more minimally invasive  
4 synthetic mid-urethral slings." Did I read that correctly?

5 A. You read it correctly, sir.

6 Q. And so what that article was saying in 2012 in this  
7 meta-analysis published in this prestigious journal is that  
8 there is insufficient data to support the use of cadaveric  
9 sling material instead of polypropylene mid-urethral slings,  
10 correct?

11 A. That's what this article says, sir.

12 Q. You had mentioned in your -- your earlier testimony when  
13 Mr. Monsour was asking you some questions, you are familiar  
14 with the Ross article, correct?

15 A. That's correct, sir.

16 Q. And you recognize the *American Journal of Obstetrics &*  
17 *Gynecology* as a reliable and authoritative journal, correct?

18 A. Yes, sir.

19 Q. And I'm going to hand you what has been marked as 1239.  
20 May I approach, Your Honor?

21 THE COURT: Yes, sir.

22 BY MR. ADAMS:

23 Q. 1239 is an article by a gentleman named -- or I'm  
24 sorry -- a woman named Megan Schimpf and about 14 other  
25 surgeons, correct?

—Walker - Cross - Adams—

1 A. That's correct, sir.

2 Q. And if we --

3 MR. ADAMS: May I display this, Your Honor?

4 THE COURT: Any objection, counsel?

5 MR. MONSOUR: No objection, Your Honor.

6 THE COURT: Yes, sir, Mr. Adams.

7 (The document was published to the jury.)

8 BY MR. ADAMS:

9 Q. It says, "Sling surgical for stress urinary incontinence  
10 in women: A systematic review and meta-analysis." Did I read  
11 that correctly?

12 A. That's correct, sir.

13 Q. And again, a meta-analysis is a process whereby the  
14 authors review a broad range of literature on a particular  
15 topic, correct?

16 A. Correct, sir.

17 Q. And if you look over on Page 71, it's 71e16, if we could  
18 turn to that real quickly. In fact, if we blow up the table,  
19 you can see that one of the articles that is included in the  
20 study is the 2009 Ross article comparing the TVT Advantage to  
21 the TOT Obtryx, correct?

22 A. Would you be so kind, sir, to tell me what page I should  
23 turn to?

24 Q. I'm sorry. 71e16. The pages are --

25 A. Okay. Okay, sir.

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1 Q. You got it?

2 A. Thank you.

3 Q. Okay. All right. So one of the articles -- I don't mean  
4 to rush you, Doctor. Are you there?

5 A. Okay, sir, I'm here now.

6 Q. Okay. You can see that this meta-analysis is --  
7 actually, one of the studies it included and considered in its  
8 analysis is the Ross study, correct?

9 A. Yes, sir.

10 Q. 2009, correct?

11 A. Correct, sir.

12 Q. And let's look at Page 2 of this study. Blow up the  
13 highlighted material. It says, "Since 1996, when Ulmsten, et  
14 al, published the initial paper about retropubic tension-free  
15 vaginal tape, TVT, the use of synthetic mid-urethral slings,  
16 MUS, has grown to become the most common surgery performed for  
17 SUI in women." Did I read that correctly?

18 A. You read it well, sir.

19 Q. All right. And the TVT is the product -- one of the  
20 products that you have familiar with -- have familiarity with,  
21 correct?

22 A. Yes, sir.

23 Q. And if we go over to the comment on Page 71e16 --

24 A. Yes, sir.

25 Q. -- it says, "Surgical treatment of SUI has been well

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1 studied. Mid-urethral slings have become more common than  
2 pubovaginal sling procedures and Burch urethropexy for  
3 correction of SUI." Did I read that correctly?

4 A. You did, sir.

5 Q. And you, yourself, have rejected the use of doing a Burch  
6 procedure or an MMK procedure, correct?

7 A. It's not one of my choices currently, sir. It is  
8 certainly in my toolbox.

9 Q. It is in your toolbox but for -- you talked about how for  
10 your patients, your current algorithm are these four items,  
11 correct?

12 A. Correct, sir.

13 Q. And one of the reasons why you have not put in your  
14 algorithm the Burch or the MMK is because those are much more  
15 invasive surgeries; agreed?

16 A. I agree, sir.

17 Q. Those surgeries involve an actual cut, four-inch cut,  
18 minimally, right?

19 A. I always try to do it laparoscopically, so very small  
20 incisions, but it's still a more involved procedure, longer  
21 surgery time, and, of course, longer surgery time means longer  
22 recovery time.

23 Q. Right. Not only is the surgery time much longer, but the  
24 recovery time is much longer with an MMK or a Burch procedure,  
25 correct?

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1 A. That's correct, sir.

2 Q. And if you don't do a Burch laparoscopically, it is an  
3 invasive surgery involving a four- to six-inch cut in a  
4 woman's abdomen, correct?

5 A. That's correct, sir.

6 Q. And once you do the cut, you've got to spread open that  
7 abdomen to go down into the vaginal area, correct?

8 A. To get to the bladder, to mobilize the bladder neck.

9 Q. Right. Correct.

10 And how do you spread that volume of tissue open in a  
11 procedure after you make that four- to six-inch cut?

12 A. You have a special instrument known as a retractor.

13 Q. And the retractor --

14 A. So the retractors opens, separates the tissue planes, and  
15 allows us to visualize the bladder, we then open the dome of  
16 the bladder and lift up the neck of the bladder.

17 Q. So you're taking a four- to six-inch cut and then you're  
18 spreading it open with a retractor in a woman's abdomen,  
19 correct?

20 A. If you're going to approach it via an abdominal incision  
21 versus the laparoscopic approach, yes, sir, that's correct.

22 Q. And that's true on an abdominal MMK and an abdominal  
23 Burch, correct?

24 A. That's correct, sir, yes.

25 Q. And those procedures, you talked about a longer recovery



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1 time. That -- in doctor language, you talk about it has more  
2 morbidity, correct?

3 A. That's correct, sir.

4 Q. In other words, you have more chances with a Burch,  
5 abdominally, a Burch procedure and an MMK procedure, of  
6 complications, and it's going to take the woman a lot longer  
7 to recover, correct?

8 A. Yes, sir. The short-term postop period is going to be  
9 longer in those patients, that's correct, sir.

10 Q. And when -- and so there are significant safety issues  
11 that are associated with any type of the surgical options that  
12 we talked about, correct?

13 A. That's correct, sir.

14 Q. With Burch and the MMK procedures, you have the risk of  
15 dyspareunia developing after such an operation, correct?

16 A. Yes, sir.

17 Q. You have the risk of long-term chronic pelvic pain as a  
18 result of those operations, correct?

19 A. Yes, sir.

20 Q. With the Burch and an MMK, you're down in the same area  
21 where this nerve field that you talked about with the pudendal  
22 nerve is located, correct?

23 A. You can get branches of the pudendal nerve, that's  
24 correct, sir.

25 Q. Right. And so the same type of injuries that can occur

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1 to those nerves in an MMK or a Burch, you talked about also  
2 occurring with devices like the Obtryx, correct?

3 A. Correct, sir.

4 Q. And all of those are risks that have to be factored in,  
5 correct?

6 A. They have to be factored in, yes.

7 Q. And all of those risks are factored into meta-analyses  
8 like this article that was published in this prestigious  
9 journal, correct?

10 A. That's correct, sir.

11 Q. Now, let's go back to this article, underneath "Comment,"  
12 if you could go to the paragraph down at the bottom. I don't  
13 think it's highlighted, Jen.

14 It says, "The best-studied comparison is for retropubic  
15 compared to obturator mid-urethral sling which included 21  
16 separate studies. There appears to be little need to study --  
17 let's go to the next page" -- to study this forward --  
18 further -- let me read that again.

19 It says, "There appears to be a" -- "There appears to  
20 be little need to study this further for straightforward SUI  
21 unless surgical products change significantly." Did I read  
22 that correctly?

23 A. You read it correctly, sir.

24 Q. In other words, they're saying, based upon this  
25 meta-analysis that included the Ross study, there doesn't --

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1 there is no need, in these authors' minds, as for more studies  
2 comparing the safety and effectiveness of polypropylene  
3 retropubic mid-urethral slings versus transobturator slings,  
4 correct?

5 A. Correct, in those authors' minds, that's correct, sir.

6 Q. It says, "We found few reliable data for subpopulation  
7 patients who have urethral sphincter weakness or a history of  
8 surgical failure." Did I read that correctly?

9 A. Oh, you read it correctly, sir.

10 Q. All right. And let's go one last section. If we could  
11 go to 71e18. Blow this up real quick, Jen. Thank you.

12 It says, "When choosing between surgical procedures,  
13 any surgeon must weigh the presumed benefits with the  
14 potential risks and adverse events of these procedures,"  
15 correct?

16 A. Correct, sir.

17 Q. That's what doctors like you do and the doctors in West  
18 Virginia that are involved in this case, that's what you do  
19 every day, right?

20 A. That's correct, sir.

21 Q. And then if we could blow up this highlighted area, it  
22 says, "Additionally, surgeons should evaluate their own  
23 personal success and complication rates with the procedures  
24 and products they use, as they may differ from published  
25 rates." Correct?

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1 A. That's correct, sir.

2 Q. And, so, that goes back to the couple of articles that I  
3 showed that are critical of your product. Despite what may be  
4 in those articles, you've got to evaluate your own clinical  
5 experience; fair?

6 A. That's fair, sir.

7 Q. Let's talk -- last topic, but it may take a little bit of  
8 time. I want to talk to you about the work that you did with  
9 Ms. Wilson, and you'll recall that when you -- when you were  
10 discussing with Mr. Monsour your evaluation of Ms. Wilson, you  
11 initially, when she came to your office on May 2nd of 2014,  
12 you collected information from her regarding her history,  
13 correct?

14 A. That's correct, sir.

15 Q. And you also, by the way, you also observed her walking  
16 in your office, correct?

17 A. I saw her from a -- from the moment she entered the  
18 office to the moment she exited, yes, that's correct, sir.

19 Q. And you observed her walk and her gait, and you said that  
20 her walk and her gait was normal, correct?

21 A. Let me refresh my -- (pause)

22 Q. Let me do it this way, Doctor.

23 A. Yes, sir.

24 Q. Obviously, you were observing -- you were there to  
25 physically examine her, correct?

—Walker - Cross - Adams—

1 A. Yes, sir.

2 Q. So if you would have noticed that she was walking with a  
3 limp or walking in a guarded manner, that is one of the things  
4 that you would have put in your report, correct?

5 A. Correct, sir.

6 Q. And there is no reference to any type of problem or limp  
7 or unusual nature of the gait or the way Ms. Wilson walked in  
8 your office, correct?

9 A. Correct. I didn't note it here.

10 Q. And if there was, you would have written it down because  
11 that's important, correct?

12 A. Correct, sir.

13 Q. All right. Now, one of the things that you did is in the  
14 process when you talk to a patient, you, for the first time,  
15 you gather a medical history from them, correct?

16 A. That's correct, sir.

17 Q. And even though this examination that was done by you  
18 was for -- it was for purposes of litigation; fair?

19 A. That's correct, sir.

20 Q. All right. You knew that when you did this exam, the  
21 information that you recorded here, eventually, you may have  
22 to come in front of a jury and testify about it, correct?

23 A. That's correct, sir.

24 Q. All right. And so, obviously, you were careful in what  
25 you were recording; fair?

—Walker - Cross - Adams—

1 A. Yes, sir.

2 Q. And underneath the HPI -- do you have your report there?

3 A. Yes, sir.

4 Q. Underneath the HPI, you gather a history, correct?

5 A. Yes, sir.

6 Q. And it says -- and HPI stands for history of present  
7 illness, correct?

8 A. That's right, sir.

9 Q. All right.

10 MR. ADAMS: And, Your Honor, may I display his  
11 report, which is defendant's Exhibit 39?

12 THE COURT: Any objection, counsel?

13 MR. MONSOUR: No objection, Your Honor.

14 THE COURT: Yes, sir, Mr. Adams.

15 MR. ADAMS: Thank you, Your Honor.

16 (The document was published to the jury.)

17 BY MR. ADAMS:

18 Q. Down at the bottom, we've gone through this report, and  
19 it says, HPI, which is history of present illness, and then on  
20 the next page, you record information that is actually taken  
21 from Ms. Wilson, correct?

22 A. May I ask, sir, where you are referring to now?

23 Q. Sure. I'm on Page 2 under the topic of HPI.

24 MR. MONSOUR: Can I approach, Your Honor?

25 THE COURT: Yes, sir.

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1 THE WITNESS: On the --

2 THE COURT: Just a second.

3 MR. ADAMS: HPI.

4 THE COURT: There is an objection on the floor or at  
5 least an approach.

6 (The following occurred at sidebar.)

7 MR. MONSOUR: There is a couple of things Judge  
8 Goodwin granted in our motions in limine to exclude her  
9 sexuality, and I just want to make sure they are not flashing  
10 that up on the board. I thought I saw it go up there, but I  
11 want to make sure.

12 MR. ADAMS: No, it will not -- well, I'm only going  
13 to highlight the --

14 MR. MONSOUR: It's going to be up there so --

15 THE COURT: Let's make sure that it's not.

16 MR. ADAMS: I will black that out.

17 MR. MONSOUR: Okay.

18 MR. ADAMS: And I appreciate it. Thank you.

19 (Sidebar concluded.)

20 BY MR. ADAMS:

21 Q. Okay. Doctor, we are to the first page of your report --

22 A. Yes, sir.

23 Q. -- where it says -- underneath "History of Present  
24 Illness," correct?

25 A. Yes, sir.

—Walker - Cross - Adams—

1 Q. All right. And when you collect that information, that's  
2 part of your normal procedure, correct?

3 A. Yes, sir.

4 Q. And the "History of Present Illness" is information that  
5 she told you, correct?

6 A. That's correct, sir.

7 Q. You're just recording what Ms. Wilson tells you about her  
8 prior problems, correct?

9 A. Correct, sir.

10 Q. And you're not representing to this jury that the  
11 statements made by her when she was -- was visiting you for a  
12 litigation examination, you're not representing that those  
13 statements are actually accurate based upon the medical  
14 records; fair?

15 A. Correct. I'm writing the story that I obtain from the  
16 patient, Ms. Wilson.

17 Q. Okay. And so there was nothing done by you, at this  
18 time, underneath history of present illness, to correct her  
19 and say, well, hold on, you're wrong because I know about this  
20 other information in your medical record; fair?

21 A. That's correct, sir.

22 Q. And so here is the information that you were told from  
23 Ms. Wilson, if we can put up the first page, and let's look at  
24 the first paragraph. It provides details in the first  
25 paragraph about the mesh sling, and it says the procedure was



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1 performed by Dr. Bhanot, correct?

2 A. Correct, sir.

3 Q. And then the next paragraph, it says, "Then,  
4 approximately one year after surgery, she began to have pelvic  
5 pain, abdominal pain, back pain and other problems associated  
6 with the mesh sling such as incomplete bladder emptying." Did  
7 I read that correctly?

8 A. That's correct, sir.

9 Q. And you didn't review any medical records showing the  
10 extensive history she had with back pain that actually existed  
11 prior to this one year after surgery, correct?

12 A. Did I review medical records? I have seen medical  
13 records that have revealed that Ms. Wilson was involved in a  
14 MVA, motor vehicle accident, and she did sustain back injury.

15 Q. All right. And so you were aware of the one back injury  
16 from the motor vehicle accident, correct?

17 A. Yeah. Yes, sir. I'm aware of the fact that she does  
18 have chronic back pain and she has lumbovertebral disc  
19 disease.

20 Q. Okay. But from her, when she was there to provide this  
21 information to you, she says, one year after surgery, she  
22 began to have pelvic pain, abdominal pain, back pain and other  
23 problems, and we've already read that, correct?

24 A. That's correct, sir.

25 Q. And then it says, "She was evaluated by urodynamics and

—Walker - Cross - Adams—

1 found to have a urethral stricture," correct?

2 A. Correct, sir.

3 Q. And then it says it was addressed by Dr. Bhanot.

4 Then the next paragraph, if we could move up from  
5 there, it says, "In addition, she complains of urinary  
6 incontinence, urinary spraying, dyspareunia, urinary urgency  
7 and frequency, Q 30 minutes, nocturia, incomplete bladder  
8 emptying, urinary retention." Did I read that correctly?

9 A. That's correct, sir.

10 Q. Now, with respect to your evaluation of Ms. Wilson, you  
11 would agree with me that you have no objective evidence to  
12 show that on the date that she visited your office, May 2nd of  
13 2014, she was actually experiencing any issues associated with  
14 urinary incontinence, urinary spraying or dyspareunia,  
15 correct?

16 A. Correct, sir. I did not do any urinary testing or any  
17 other specific tests to assess urinary function on that date.  
18 I just examined her, listened to her story, and was able to  
19 identify the cause of her pain.

20 Q. Okay. And she also noted that she's no longer sexually  
21 active due to pain associated with intimacy as well as urinary  
22 leakage with orgasm, correct?

23 A. Correct, sir.

24 Q. And the only information you have on that is from what  
25 you got out of Ms. Wilson, correct?

—Walker - Cross - Adams—

1 A. Correct.

2 Q. And then if we could go to the next section. It  
3 says, "No history of her having sciatica or chronic back  
4 pain." And then it says, "Hx," history "of motor vehicle  
5 accident in 1985 which resulted in knee surgery. She  
6 sustained a concussion." Did I read that correctly?

7 A. That's correct, sir.

8 Q. Now, when we talk about sciatica, sciatica is a situation  
9 where somebody may have pain in their back that actually goes  
10 down into their legs and sometimes into people's hands,  
11 correct?

12 A. In the -- if it is a lumbovertebral etiology, it will  
13 radiate down the leg, sir.

14 Q. Okay. And Ms. Wilson told you that she didn't have any  
15 sciatica or chronic back pain, correct?

16 A. That's what I elicited from her, sir.

17 Q. All right. And then when -- if we could go to the next  
18 page, it says, on the first paragraph on Page 9 -- I'm sorry,  
19 Jen, it's Page 9, first paragraph.

20 A. Page 9, sir?

21 Q. Yes, sir. Where she describes the pain, she says, "She  
22 reported having a sharp shooting pain in her pelvis with a  
23 single digit examination, applying minimal tissue pressure;  
24 she reported radiation of her pain upwards into her lower  
25 abdominal quadrants." Did I read that correctly?

—Walker - Cross - Adams—

1 A. That's correct, sir.

2 Q. All right. And, sir, prior to coming in here today, did  
3 you make any effort to actually go through her medical records  
4 to see whether these statements that were made by her were  
5 accurate or not accurate?

6 A. I did review Ms. Wilson's past medical history and her  
7 medical records. I have done so, sir, yes.

8 Q. Okay. So you saw where she has -- had been treated, even  
9 before the Obtryx implantment with -- strike that.

10 She has been treated several times before the Obtryx  
11 was placed for chronic back issues, correct?

12 A. Yes, sir. I've seen that in the past.

13 Q. And you have seen the medical records from Dr. Bhanot  
14 that shows that after he did the sling revision, she hasn't  
15 experienced any urinary problems, correct?

16 A. I would have to refresh my memory with his medical  
17 records, sir.

18 Q. All right. Let's look at these records quickly. And  
19 what I've done to save time is I have organized these records.

20 MR. ADAMS: And, Your Honor, I will read the Bates  
21 numbers off for the record, but all of these are in evidence.

22 THE COURT: All right.

23 BY MR. ADAMS:

24 Q. And, Dr. Walker, I have a set of records for you.

25 A. Thank you, sir.

—Walker - Cross - Adams—

1 Q. You're welcome.

2 And I want to just lay out kind of a little bit of a  
3 timeline for the jury so we can discuss the relationship of  
4 some of these issues that Ms. Wilson's had to deal with.  
5 Okay?

6 A. Yes, sir. Yes, sir.

7 Q. And the first record that I have put in front of you is a  
8 record from Dr. Jagannath. And down at the bottom, you see  
9 that it has Bates Number 81. Correct?

10 A. Yes, sir.

11 Q. And Dr. Jagannath visits her or she visits Dr. Jagannath  
12 on April 30th of 2007, correct?

13 A. That's correct, sir.

14 Q. And that's, obviously, prior to the time that she had the  
15 Obtryx device from Dr. Bhanot, correct?

16 A. Correct, sir.

17 Q. And it says in this medical record --

18 MR. ADAMS: And, Your Honor, may we display these so  
19 the jury can see them and follow them?

20 THE COURT: Yes, sir. They've already been admitted  
21 into evidence.

22 MR. ADAMS: They have, Your Honor.

23 (The document was published to the jury.)

24 BY MR. ADAMS:

25 Q. So we have the record, it's 4-30-07, and it says,

—Walker - Cross - Adams—

1 "40-year-old white female has history" -- I think that's  
2 history, right?

3 A. I have to agree with you, sir, history of trigeminal  
4 neuralgia.

5 Q. Okay -- "history of trigeminal neuralgia, GERD, bipolar  
6 disorder, and she's a chronic smoker," correct?

7 A. That's correct, sir.

8 Q. And you've seen other medical records that show that  
9 Ms. Wilson, even when she came to visit you, is a chronic  
10 smoker, correct?

11 A. Yes, sir.

12 Q. All right. And not criticizing somebody's choice to  
13 smoke, but smoking actually -- smoking can affect the healing  
14 process from surgeries like the cadaver sling surgery that you  
15 do or a mid-urethral sling, correct?

16 A. Yes, sir.

17 Q. And smoking also, in combination with atrophic vaginitis,  
18 can lead to complications such as an erosion, correct?

19 A. It can be a form of a factor to certainly -- yes, sir, it  
20 can -- it can accelerate the progression of a complication  
21 such as a mesh exposure.

22 Q. Okay. And he goes on to say here, it says, "has chronic  
23 backache," correct?

24 A. Correct, sir.

25 Q. All right. And I'm going write this down and then I'll

—Walker - Cross - Adams—

1 get out of the way, and I want to make sure that you agree  
2 with this. So I've written down, April 30th, 2007, chronic  
3 back pain; fair?

4 A. Is it April 30th? Sir, I'm not being nit-picky. Is it  
5 April 30 or April 23rd?

6 Q. You're right, it is April 23rd. Good catch. April 23rd,  
7 2007, chronic backache, correct?

8 A. Yes, sir.

9 Q. And then if we go to the next record, this is a record  
10 from October 21st, 2008. Also, it's a Jagannath record, 76,  
11 correct? Down at the bottom.

12 A. Yes, sir.

13 Q. And you can see that she's present then, October 22nd --  
14 21st, 2008. It says, "Complaints of recurrent backache, low  
15 backache, four months." Did I read that correctly?

16 A. Yes, sir.

17 Q. And then it says -- and I can't read it. It says, "has,"  
18 next word, "menstrual," I think --

19 A. "Has menstrual" --

20 Q. "Periods."

21 A. -- "periods one week after the pain."

22 Q. Okay. So she's having recurrent backaches for four  
23 months and then will have menstrual periods one week after the  
24 pain, correct?

25 A. Yes, sir.

—Walker - Cross - Adams—

1 Q. And I'm writing down recurrent backache, four months;  
2 fair?

3 A. Fair, sir.

4 Q. And then if we go to the next record that I have in this  
5 set, Doctor, is when we compare this with the timeline of the  
6 Obtryx, we know that the Obtryx device was implanted by  
7 Dr. Bhanot -- or Dr. Bhanot on May 20th of 2010, correct?

8 A. Yes, sir.

9 MR. ADAMS: And in this record, the jury can see, if  
10 we go to the next one, Jen, this is record 59.

11 (The document was published to the jury.)

12 BY MR. ADAMS:

13 Q. Under "Findings." It does say that Dr. Jagannath -- I'm  
14 sorry -- that Dr. Bhanot at that time says, "The patient has  
15 Type 2 cystocele." Correct?

16 A. Correct, sir.

17 Q. "Some prolapse of the uterus was noted but not enough to  
18 require any repair at this time." Did I read that correctly?

19 A. Correct, sir.

20 Q. All right. So, at least according to Dr. Bhanot, she did  
21 have a Type 2 cystocele, correct?

22 A. Correct, sir.

23 Q. And you did not -- according to your examination, you did  
24 not notice a Type 2 cystocele, correct?

25 A. That's correct, sir.



—Walker - Cross - Adams—

1 Q. Now, cystoceles, in common laymen's term, a cystocele is  
2 also referred to as fallen bladder syndrome, correct?

3 A. That's right, sir.

4 Q. Essentially, what's happening is, is that if -- if we go  
5 back to the medical diagram that we have up there, if the  
6 vagina is considered a cave that I've heard some doctors  
7 describe, it's a cave with the anterior wall at the top and  
8 the posterior at the bottom, and then the back is called the  
9 apex, correct?

10 A. Correct, sir.

11 Q. And what's happening with cystocele is, is that the top  
12 of the vagina, or the apical part of the vagina, starts to  
13 come down as a result of the bladder descending, correct?

14 A. Correct, sir.

15 Q. And there is various grades of cystocele that go from  
16 Grade 1 all the way up to Grade 4, correct?

17 A. Correct, sir.

18 Q. And so even at this point in time when the Obtryx is  
19 placed, Dr. Bhanot is noticing a Grade 2 cystocele, correct?

20 A. Correct, sir.

21 Q. Cystoceles, like stress urinary incontinence, are  
22 conditions that aren't going to get better on their own,  
23 correct?

24 A. Correct, sir.

25 Q. They are going to worsen, based upon your experience,

—Walker - Cross - Adams—

1 correct?

2 A. They can worsen with time.

3 Q. Right. And they generally do worsen with time, correct?

4 A. If the patient does not implement changes to her  
5 lifestyle, behavioral modifications, such that if someone, for  
6 example, works lifting heavy boxes or pushing something heavy,  
7 then it's increasing the pressure in the abdomen so they are  
8 going to result in pushing that bladder out into the vagina.

9 But if you tell her, listen, you know, stop doing that sort of  
10 activity, then I wouldn't expect the progression to occur.

11 Q. Okay. But you'll agree with me that with a lot of women,  
12 cystoceles, the progression does occur, correct?

13 A. It does occur, sir.

14 Q. And the jury has already heard -- that's supposed to be  
15 Stage 2 -- I wrote down, is that fair, cystocele, Stage 2?

16 A. Yes, sir.

17 Q. Okay. The jury has already heard about when any type of  
18 mid-urethral sling procedure is done, whether it's the TVT,  
19 which is the retropubic, or the Obtryx, which is the TVT-O or  
20 the transobturator approach, one of the things that the doctor  
21 always has to make sure of is that there is proper tension on  
22 the sling, correct?

23 A. That's correct, sir.

24 Q. In other words, you don't want any tension, it should be  
25 loose, correct?

—Walker - Cross - Adams—

1 A. Correct, sir.

2 Q. And you'll agree with me that excellent surgeons,  
3 surgeons like yourself, can place a sling in a tension-free  
4 manner and then later on, due to no fault of the doctor and no  
5 fault of the sling, that sling can become tight, correct?

6 A. So, the sling becomes tight either if it's physician  
7 error, meaning the doctor in the beginning made it too tight,  
8 or, if due to the ingrowth and the body now growing into the  
9 mesh sling, it becomes tighter with time.

10 Q. And not only that, but there can be anatomical changes  
11 such as a cystocele that worsens that can cause a sling to  
12 increase the tension and become tight, correct?

13 A. The positioning of the descent of -- so let me rewind.  
14 The location of a sling, i.e., the Obtryx, is in the  
15 middle of the urethra. What we're talking about is a  
16 bladder --

17 Q. I understand.

18 A. So that's further up.

19 If this is the urethra, the sling is here. So the  
20 falling of the bladder is referred -- making reference to this  
21 structure, the bladder, falling into the vagina, like this.  
22 (Indicating.)

23 Q. Okay.

24 A. So, to be truthful with you, sir, it really doesn't  
25 exacerbate the progression of any sling complication. It's

—Walker - Cross - Adams—

1 really independent.

2 Q. Okay. Let me ask you this: Have you seen scientific  
3 literature that shows that the progression of cystocele may  
4 cause a device like a pubovaginal sling or a mid-urethral  
5 sling to become tight and cause voiding problems?

6 A. It can cause voiding problems, that's correct, sir, yes.

7 Q. All right. And the voiding problems can occur because  
8 that sling is now putting too much tension or pressure on the  
9 urethra, correct?

10 A. That is correct, sir.

11 Q. And so we know from the scientific literature and  
12 experienced -- like with doctors like yourself, that one of  
13 the things that can happen with a pubovaginal sling or a  
14 cadaver sling or a polypropylene sling is, is that as  
15 cystocele progresses, there may be voiding problems created by  
16 the tension of that sling on the urethra, correct?

17 A. You can -- yes, you can have voiding problems.

18 Q. Now, if we go to the next record that we were talking  
19 about, Dr. Bhanot examined Ms. Wilson on May 25th of 2010,  
20 correct?

21 MR. ADAMS: And we can go ahead and put that on the  
22 screen, this is it, Bhanot 12.

23 (The document was published to the jury.)

24 BY MR. ADAMS:

25 Q. Do you see that, Doctor?

—Walker - Cross - Adams—

1 A. I'm looking, sir. May the 25th?

2 Q. Yes. And they should be in order. I put those in order  
3 for you.

4 A. Uh-huh. Okay. I have it, sir.

5 Q. Okay. So the next time that Dr. Bhanot sees her after he  
6 implants the sling is May 25th, 2010, correct?

7 A. Yes, sir.

8 Q. And at that time he says, "Excellent result," correct?

9 A. Yes, sir.

10 Q. And then on August 17th, the next record that we have is  
11 on August 17th, she goes to see Dr. Jagannath. Do you see  
12 that record, sir?

13 A. Yes, sir.

14 Q. And on August 17th, Dr. Jagannath examines her, and with  
15 respect to the urinary issues, he does -- he does not note  
16 that there is any urgency, hesitancy, or incontinence,  
17 correct?

18 A. He mentions here she has nocturia, but he does not  
19 mention any issue regarding urgency, hesitancy, or  
20 incontinence.

21 Q. Okay. So, and I'm going to put August 17th, 2010, no  
22 incontinence; fair?

23 A. That's fair, sir.

24 Q. Then if we go to our next record, which is March 16th of  
25 2011, this is a document -- you were aware, you testified

—Walker - Cross - Adams—

1 before that you were aware that Ms. Wilson does have a fibroid  
2 uterus, correct?

3 A. Yes, sir.

4 Q. And she also has ovarian cysts, correct?

5 A. She has a history of ovarian cysts.

6 Q. All right. Were you aware that she was treated at an  
7 Emergency Room for issues related to that?

8 A. I have to refresh my memory with the medical record, sir.

9 Q. Okay. Let's look at this record. And this is 67.

10 A. Okay.

11 (The document was published to the jury.)

12 BY MR. ADAMS:

13 Q. This is from March 16th of 2011.

14 A. Okay, sir.

15 Q. And at that time she goes to the Emergency Room. Do you  
16 see that?

17 A. Yes, sir.

18 Q. And this is at Montgomery General Hospital, correct?

19 A. Yes, sir.

20 Q. If we can go to the next page, it says, "Right flank pain  
21 lower for two days." Did I read that correctly? It's on Page  
22 2 of that document. You're too far ahead.

23 A. Thank you, sir. Okay.

24 Q. Okay. It says, "Right flank pain lower for two days,"  
25 correct?

—Walker - Cross - Adams—

1 A. Yes, sir.

2 Q. And then it goes on and it shows that, on the next page,  
3 under HPI --

4 A. Yes, sir.

5 Q. -- do you see -- can we turn to that page? This is  
6 record 69. It says -- and it's over in the box, it says,  
7 "Acute onset of right flank pain."

8 A. Yes, sir.

9 Q. "Unable to get comfortable." Did I read that correctly?

10 A. That's correct, sir.

11 Q. And then on the next page, there's actually a diagram  
12 showing where that pain is located. Do you see that?

13 A. Yes, sir.

14 Q. And we can see that the right flank pain is in the area  
15 of her back, over on the right side, correct?

16 A. Correct, sir.

17 Q. And I'm going to write, acute onset of RF pain; fair?

18 A. That's fair, sir.

19 Q. And then on -- as we go through this record, if we look  
20 towards the end of the record, the second page from the end,  
21 which is 77 --

22 A. 77.

23 Q. Bates Number 77.

24 A. Yes, sir.

25 Q. There is actually a radiology report, and it says,

—Walker - Cross - Adams—

1 "Uterus is enlarged and lobulated." Correct?

2 A. Yes, sir.

3 Q. And what does lobulated mean?

4 A. That would suggest that she has fibroids present within  
5 the uterus, sir.

6 Q. And you would agree with me that there is scientific  
7 literature, and your own experience, that tells you that  
8 somebody with an enlarged uterus with fibroids can experience  
9 chronic pelvic pain, correct?

10 A. Correct, they can have pelvic pain.

11 Q. And that can be chronic pelvic pain for as long as they  
12 have issues with an enlarged fibroid uterus, correct?

13 A. That's correct, sir.

14 Q. And that's what leads to the fact that sometimes women,  
15 in order to cure that treatment, they have to have a  
16 hysterectomy, correct?

17 A. That's correct, sir.

18 Q. That's the only thing that will stop that chronic pelvic  
19 pain, correct?

20 A. That's correct, sir.

21 Q. And not only does a uterus that is enlarged and is  
22 fibroid cause chronic pelvic pain, but it can also cause  
23 dyspareunia, correct?

24 A. That's correct, sir.

25 THE COURT: Mr. Evans, how much longer do you have?



—Walker - Cross - Adams—

1 MR. ADAMS: I have probably maybe 10 to 15 minutes,  
2 Your Honor. I'm doing my best to go through this.

3 THE COURT: All right. Go ahead.

4 MR. ADAMS: Thank you.

5 BY MR. ADAMS:

6 Q. Let's look at the next record. And this is from March  
7 30th of 2013.

8 A. March 30th, 2013.

9 (The document was published to the jury.)

10 BY MR. ADAMS:

11 Q. And if we could put that up on the screen. March 30th of  
12 2013, this is the Jagannath record. It says 18 on the bottom  
13 of it, Doctor. And --

14 A. Bates Number 18, sir?

15 Q. Yes, Bates Number 18 on the bottom. It's from March 30th  
16 of 2011. Correct?

17 MR. MONSOUR: Objection, Your Honor. I think you got  
18 the date wrong.

19 MR. ADAMS: March 30th of 2011?

20 MR. MONSOUR: You said 13th.

21 MR. ADAMS: Oh, I'm sorry. I mean March 30th of  
22 2011.

23 MR. MONSOUR: All right.

24 MR. ADAMS: Okay. Thank you. I apologize if I  
25 misspoke.

—Walker - Cross - Adams—

1           THE WITNESS: Can you just show me where you're  
2 talking about, sir? I appreciate it.

3 BY MR. ADAMS:

4 Q. Certainly.

5 A. That way I don't --

6 Q. March 30th of 2013. I think you're ahead.

7 A. Okay, sir, let me find it.

8 Q. I put those in order for you.

9 A. Thank you.

10 Q. Don't skip ahead.

11 A. March 30th, 2013.

12           MR. ADAMS: Your Honor, may I direct him to the  
13 correct page?

14           THE COURT: Yes, sir.

15 BY MR. ADAMS:

16 Q. And I'll just be going through those one at a time.

17 A. Thank you, thank you.

18 Q. So we're back on March 30th of 2011. She goes to visit  
19 Dr. Jagannath on this date, and March 30th of 2011, he notes  
20 that "Abdomen, which showed fibroid uterus and ovarian cyst.  
21 She saw Dr. Sandhu and was started on estrogen." Did I read  
22 that correctly?

23 A. Yes, sir, you read it correctly.

24 Q. Well, we know from Ms. Wilson that she never took the  
25 estrogen that was prescribed to her from Dr. Sandhu, correct?

—Walker - Cross - Adams—

1 A. I understand she did not take that, that's correct, sir.

2 Q. I'm writing, fibroid uterus, cyst, ovarian cyst. Fair?

3 A. Fair, sir.

4 Q. And estrogen prescribed. Fair?

5 A. Fair, sir.

6 Q. And also on that date, on that same record, if you go  
7 down to the urinary issues, Dr. Jagannath at that point is  
8 not -- his notes reflect that she is experiencing no urinary  
9 issues on March 30th of 2011. Correct?

10 A. Correct, sir.

11 Q. Then if we look at the next record, which is May 2nd, and  
12 that should be the next one in your packet. Is it, Doctor?  
13 It should be right after the record we just looked at.

14 A. May 4th, 2013?

15 Q. May 2nd. See up at the top it says Thursday, May 2nd?

16 A. "Seen on," yes, sir. Okay. And "signed on," okay.

17 Q. No problem.

18 And, again, just for the record, this is Jagannath  
19 medical record Bates Number 4. And we see that on May 2nd of  
20 2013, Ms. Wilson is examined again by Dr. Jagannath, correct?

21 A. Yes, sir.

22 Q. And it says, "Complains of pain in lower abdomen for a  
23 few months." Did I read that correctly?

24 A. That's correct, sir.

25 Q. And it says, "Has had recurrent lower abdominal pain

—Walker - Cross - Adams—

1 radiating to" lower -- "to left loin area." Correct?

2 A. Correct, sir.

3 Q. The loin area is the pelvis, correct?

4 A. I understand it to be posterior axillary, otherwise known  
5 as the flank region.

6 Q. Okay. So it's saying abdominal pain radiating to the  
7 left loin area, correct?

8 A. That's correct, sir.

9 Q. I just put, abdominal pain to loin. Fair?

10 A. Yes, sir.

11 Q. And if we go over to -- well, strike that. Let's go to  
12 our next record. Oh, and I'm sorry.

13 If we could blow up this last point so the jury could  
14 see. It says, "Lower abdominal pain, unclear etiology,  
15 uterine fibroids and ovarian cyst." Did I read that  
16 correctly? Down at the bottom, Doctor. It's about -- it's in  
17 Section A on the record. This is the record dated May 2nd,  
18 2013.

19 A. Yes, sir.

20 Q. Okay. And etiology means unclear cause, correct?

21 A. Correct, sir.

22 Q. And then let's look at our next record, try to wind this  
23 up. Our next record is from May 23rd of 2013, and this is  
24 when she visits Dr. Bhanot, correct?

25 A. That's correct, sir.

—Walker - Cross - Adams—

1 Q. And on May 23rd of 2013, when she visits Dr. Bhanot, it  
2 says, "She has had no problems postoperatively for three  
3 years." Did I read that correctly?

4 A. No, you read it perfectly correctly.

5 Q. All right. So, at least according to Dr. Bhanot, that  
6 here she is, three years later after the sling was placed, and  
7 she has had no problems. Correct?

8 A. Correct, sir.

9 Q. And it says, "She has come back to the office only one  
10 time in the immediate postop. Now she complains of abdominal  
11 pain to the back and in the middle of the spine." Did I read  
12 that correctly?

13 A. You read it correctly, sir.

14 Q. So, in our column with abdominal, back, I'm going to  
15 put March 20 -- or I'm sorry -- May 23rd, 2013, abdominal  
16 pain, and mid spine. Fair?

17 A. Fair, sir.

18 Q. And then underneath the column for Dr. Bhanot dealing  
19 with the Obtryx, we'll put his note of May 23rd, 2013, "No  
20 problems for three years." Correct?

21 A. Correct, sir. But may I add that I noted that in his own  
22 record, he says here that in the abdominal area that she has  
23 more pain on the left side, and then he goes on to say she has  
24 no cystocele or any rectocele. But before he had mentioned  
25 that had she had a Grade 2 cystocele.

—Walker - Cross - Adams—

1           In my humble opinion, when I examined her, she had no  
2   cystocele. So I don't know if it was a typographical error  
3   with his first report, but she definitely has no cystocele,  
4   sir.

5   Q.   Okay. Fair enough. And I appreciate you pointing that  
6   out in the record.

7           Let's go to the next record which is dated June 22nd,  
8   2013. It says, June 21st -- I'm sorry -- 2013. This is Bates  
9   Number 07. Down at the bottom, it says, "Recommend  
10   urethrolysis. The procedure and its complications were  
11   explained to the patient in detail." Did I read that  
12   correctly?

13   A.   You read it perfectly, sir.

14   Q.   And he had recommended the urethrolysis as a result of  
15   her complaining about voiding problems, correct?

16   A.   Yes, sir.

17   Q.   And urethrolysis is a fancy way of saying he was going to  
18   go in and cut the sling, correct?

19   A.   That's correct, sir.

20   Q.   And then we see that, the next record is dated -- the  
21   next record is dated May 27th of -- I'm sorry -- August 27th  
22   of 2013, correct?

23   A.   Yes, sir.

24   Q.   And on August 22nd -- or 27th of 2013, he notes under  
25   spine, on that date, on August 27th of 2013, he notes,

—Walker - Cross - Adams—

1 "Paravertebral tenderness at L2, L3, L4," correct?

2 A. That's correct, sir.

3 Q. And that's in the lower area of the back, correct?

4 A. That's correct, sir.

5 Q. And I will put L2, L3, L4. Fair?

6 A. That's fair, sir.

7 Q. And then underneath the plan and recommendations, on  
8 August 27th, 2013, it says, "The patient based on post void  
9 residual as well as symptoms, she is advised to have  
10 urethrolysis and the understanding that she may not have  
11 control of her urine after surgery. She agrees to have this  
12 done." Did I read that correctly?

13 A. You read it correctly, sir.

14 Q. I'm going to put, "advised on urine." Fair?

15 A. That's fair, sir.

16 Q. All right. And then after that point in time, we know  
17 that she actually undergoes the -- the next record real  
18 quickly, Doctor, is the procedure from August -- August 28th  
19 of 2013, correct?

20 A. That's correct, sir.

21 (The document was published to the jury.)

22 BY MR. ADAMS:

23 Q. And that's when he actually cuts the sling, correct?

24 A. Yes, sir.

25 Q. And underneath that document, if we could pull that up,

—Walker - Cross - Adams—

1 it says, "The patient tolerated the procedure well. There  
2 were no complications." Correct?

3 A. That's correct, sir.

4 Q. And you were talking about various future surgeries that  
5 may be needed by Ms. Wilson, correct?

6 A. Yes, sir.

7 Q. And you'll agree with me that there are actually cost  
8 codes for the various surgical procedures that you perform in  
9 your practice, correct?

10 A. Correct, sir. There is a code, and for each code, there  
11 is a -- we call them ICD-9 codes. For each code, the Medicare  
12 rates are -- correspond to it, that's correct, sir.

13 Q. Right. And the cost code for a sling procedure, you know  
14 what that is, don't you?

15 A. I will be honest with you, sir. I'm not familiar with  
16 the exact amount. I would imagine it's between 5 to \$700.

17 Q. Okay. We'll take your estimate. So, to implant a sling  
18 is about 5 to \$700?

19 A. Approximately, sir. Please don't hold me to that number,  
20 but approximately.

21 Q. And that's the cost or the cost code that the doctor  
22 would receive, correct?

23 A. Correct, sir.

24 Q. And then the overall procedure or the overall bill to the  
25 patient is around 2500 to \$3,000, correct?



—Walker - Cross - Adams—

1 A. The actual bill, including the hospital bill, may be  
2 approximately \$18,000. The hospital will make most of the  
3 money. The -- but the surgeon's actual fee may be between 5  
4 to \$700, sir.

5 Q. All right. Now, when these procedures, a sling procedure  
6 is done, you know that one of the advantages is that those can  
7 be done on an outpatient surgery basis, correct?

8 A. Yes, sir.

9 Q. And so there will not be a hospital stay, correct?

10 A. Correct, sir. There is -- they are in an outpatient  
11 facility owned by the hospital.

12 Q. Right. And those outpatient facilities, the average cost  
13 of a sling procedure for the patient is somewhere between 2500  
14 and \$3,000, correct?

15 A. I'm not aware of that number, sir. I see bills for my  
16 patients in Orlando for approximately 18,000.

17 Q. Okay. The revision surgery, it has the same cost code,  
18 correct?

19 A. Yes, sir, same cost -- let me repeat. Same  
20 reimbursement, I should say, for the surgeon. Roughly 5 to  
21 \$700.

22 MR. MONSOUR: Your Honor, objection. This is beyond  
23 the scope of direct.

24 MR. ADAMS: He talked about future surgery needs.

25 THE COURT: In terms of cost, counsel?

—Walker - Cross - Adams—

1 MR. ADAMS: Well, he didn't bring up cost, but I  
2 think I'm entitled to go into that.

3 THE COURT: You all come to the bench, please.

4 MR. ADAMS: Yes.

5 (The following occurred at sidebar.)

6 THE COURT: Mr. Monsour, state the specifics of your  
7 objection.

8 MR. MONSOUR: Mr. Adams is going beyond the scope of  
9 my direct. I did not get into any future costs in my direct.  
10 And he's now going on about it for quite some time, and I just  
11 think its impermissible cross. It doesn't go to bias. It's  
12 outside the scope.

13 THE COURT: I did not hear that. I motioned with my  
14 hand. Go ahead, please.

15 MR. MONSOUR: I was going to say, it's beyond the  
16 scope and it's impermissible cross, cannot go to bias or  
17 anything else.

18 MR. ADAMS: My position is they talked about future  
19 care and treatment. I have got a doctor here who knows about  
20 the costs of these, even though I think he's giving high-sided  
21 estimates, but I think I'm entitled to go into it. All I'm  
22 going to ask him about is what is the cost of a revision  
23 surgery. I have asked him. I think we are entitled to know  
24 that.

25 THE COURT: I'm going to sustain the objection to it

—Walker - Cross - Adams—

1 being beyond the scope of direct examination. In other words,  
2 this man's not a party, so the scope is limited by what was  
3 gone into on direct. I preserve the defendant's objection and  
4 exception to my ruling.

5 MR. ADAMS: Okay.

6 MR. MONSOUR: Thank you.

7 (Sidebar concluded.)

8 BY MR. ADAMS:

9 Q. Doctor, let's go back to the record real quick and let's  
10 try to finish this up. We were looking at the record on  
11 August 28th of 2013, where Dr. Bhanot cut the sling, correct?

12 (The document was published to the jury.)

13 BY MR. ADAMS:

14 Q. Do you see that?

15 A. Yes, sir.

16 (The document was published to the jury.)

17 BY MR. ADAMS:

18 Q. All right. The next record is Bates Number 4. He then  
19 visits with her on September 17th, 2003, correct?

20 A. Yes, sir.

21 Q. Could you put that up?

22 It says, "46-year-old female status post urethrolysis  
23 for a urethral stenosis following obturator tape and anterior  
24 repair. Symptoms had improved and she no longer has  
25 suprapubic pain, that she empties her bladder much better."

—Walker - Cross - Adams—

1 Did I read that correctly?

2 A. You read it perfectly, sir.

3 Q. I will just put, no suprapubic pain. Fair?

4 A. Fair, sir.

5 Q. The next record that we have is dated October 16th, 2013.

6 Do you have that?

7 A. Yes, sir.

8 Q. I need the date here.

9 On October 16th, 2013, Ms. Wilson was seen in the  
10 Emergency Room, correct?

11 A. Yes, sir.

12 Q. And if we can put up Bates Number 34.

13 (The document was published to the jury.)

14 BY MR. ADAMS:

15 Q. It says, "The patient states that five days ago she began  
16 having some achiness in her mid-lower back. It has gradually  
17 gotten worse in intensity with more and more stiffness and  
18 more and more pain in the low back. It seemed like it has  
19 been puffy and swollen in that same area starting yesterday,  
20 and then she noted that she has some numbness in the lateral  
21 aspect of both of her thighs down to about her knees or so  
22 earlier today and yesterday somewhat, and then today her  
23 fingers times ten, fingertips went numb." Did I read that  
24 correctly?

25 A. You read it correctly, sir.

—Walker - Cross - Adams—

1 Q. And I'm going to put up in our back column, this is  
2 August 16th of 2013, back pain, numbness.

3 Now, going back to the history that you took from  
4 Ms. Wilson, when she talked and she told you that she had no  
5 sciatica or back pain, do you recall that?

6 A. I recall that, sir.

7 Q. Now, sciatica, as we've established, involves pain  
8 shooting down your leg, as a result of a back issue, correct?

9 A. Correct, sir.

10 Q. And that is a result of a sciatic nerve which is in the  
11 lumbar area of the back, and it goes down your legs, and so  
12 when you have compression of your back, you will feel that  
13 shooting pain, correct?

14 A. Correct, sir.

15 Q. And then if we look at, beneath that at the lower part,  
16 it says, so she -- it says, so she decided to go -- to go,  
17 becoming hospital -- I'm sorry. "She decided to go" -- it  
18 looks like a typo -- "to hospital Emergency Room, and while  
19 there, she was having severe spasms in her low back that was  
20 different than the pain in her back. The patient states her  
21 left leg seems weak compared to the right, especially when she  
22 is walking, and all of her pain is worse if she tries to move  
23 around or stand up or walk. The patient has a past history  
24 about nine years ago of having sudden back pain but no chronic  
25 back problems." Did I read that correctly?

—Walker - Cross - Adams—

1 A. You read it correctly, sir.

2 Q. Let's go to our next record, and we are close to the end  
3 and I appreciate your patience.

4 (The document was published to the jury.)

5 BY MR. ADAMS:

6 Q. There is a record that is dated Wednesday, November 6 of  
7 2013. Do you see that?

8 A. Yes, sir.

9 Q. And on November 16th of 2013, this is when she visits  
10 with Dr. Jagannath, and if we could blow up the highlighted  
11 portion. It says, "Back spasm over lumbar spine." Did I read  
12 that correctly? Do you see that, Doctor?

13 A. Sir, would you show it to me? I'm sorry.

14 Q. The date is Wednesday, November 6, 2013.

15 A. Yes, sir.

16 Q. And then "ortho," it says --

17 A. Okay, yes.

18 Q. -- "back spasm over lumbar spine." Is that correct?

19 A. Yes, sir. Yes, sir.

20 Q. And I'm just going to write down "back spasm" because I'm  
21 losing space, correct?

22 A. Yes, sir, you are.

23 Q. And then when -- it says, "Will refer to neurosurgeon to  
24 evaluate backache. Continue current medications, unchanged."  
25 Correct?

—Walker - Cross - Adams—

1 A. Correct, sir.

2 Q. Now, all this time she's taking a medicine for these  
3 chronic back problems, correct?

4 A. That's correct, sir.

5 Q. Do you know what she's taking?

6 A. She's taking Tegretol, also called Carbamazepine.

7 Q. What else?

8 A. I only see that in the medical records, sir.

9 Q. Do you see other records where she's taking Anaprox?  
10 It's not important --

11 A. Yes, she's taking Naproxen, yes, sir.

12 Q. Okay. And then she does go to the neurosurgeon -- or the  
13 neurologist, I'm sorry, the neurologist, if we look at March  
14 18th of 2014.

15 A. Yes, sir.

16 Q. And on March 18th -- I apologize, Doctor. I got one  
17 record out of order.

18 Let's look at February 4th of 2014.

19 A. Okay, sir.

20 Q. Before she goes to the neurosurgeon, she goes on February  
21 4th of 2014, she goes back to Dr. Jagannath, and if you could  
22 blow up the highlighted area.

23 (The document was published to the jury.)

24 BY MR. ADAMS:

25 Q. It says, "46-year-old female is postmenopausal for year.

—Walker - Cross - Adams—

1 Has had pain in low back, pain in presacral area for a few  
2 months. Radiated down both gluteals. MRI showed disc disease  
3 and she has seen Dr. Christiano and later on has been  
4 evaluated by GYN and urologist. She used to have urgency of  
5 urine and incontinence which has resolved now." Correct?

6 A. That's what he said, sir.

7 Q. So, on that day he's also noting that, at least as of  
8 February 18th, 2014, she has no -- I'll just put UI for  
9 urinary incontinence. Fair?

10 A. Fair, sir. He does mention she has frequency of  
11 urination at nighttime.

12 Q. Okay.

13 A. Nocturia.

14 Q. Nocturia. But she doesn't have incontinence, correct?

15 A. No, sir.

16 Q. And then underneath "ortho," it says, "back spasms over  
17 lumbar spine," correct?

18 A. Yes, sir.

19 Q. And then, at the bottom, it says, "I am unable to explain  
20 her symptoms." Did I read that correctly?

21 A. You read it correctly, sir.

22 Q. And then we go to the next record, which is March 18.

23 THE COURT: Counsel, let's break for lunch. The 10  
24 or 15 minutes has now turned into 25.

25 MR. ADAMS: I apologize, Your Honor. I'm almost at



## —Colloquy—

1 the end.

2 THE COURT: Ladies and gentlemen, I'm going to give  
3 you your luncheon recess. While you're out, do not discuss  
4 this case among yourselves or permit anyone to discuss it with  
5 you or in your presence. And please be in your jury lounge at  
6 2:00. We'll stand in recess for your purposes.

7 (The Jury left the courtroom at 12:41 p.m.)

8 THE COURT: Counsel, you all have some matters which  
9 need to be addressed, and we will take those up at quarter  
10 till 2. I'll see you all back here.

11 (A luncheon recess was taken from 12:41 p.m. to  
12 1:45 p.m.)

13 THE COURT: Good afternoon, you all. What  
14 matter do we need to address?

15 MR. MONSOUR: Following the conclusion of Dr.  
16 Walker's examination we're going to play three implanters that  
17 are a total of about 30 minutes both sides. And I've got two  
18 or three issues, objections to their proffers that I'd like  
19 the Court to consider. It may be easier if we could come see  
20 you.

21 THE COURT: They are issues that were not covered by  
22 Judge Eifert? Is that correct?

23 MR. MONSOUR: They are issues that have been covered  
24 by Judge Eifert and/or Judge Goodwin, but the defendants are  
25 still proffering the testimony.

—Colloquy—

1 THE COURT: All right.

2 (The following occurred at sidebar.)

3 MR. LOVE: This is Luby, but Luby will affect all  
4 three. The issues are the same. I've kind of numbered them.  
5 There are essentially three issues, Your Honor.

6 And if you go to the third page of the transcript  
7 here, you see the Number 1 there. I'm only going to do Luby  
8 because the issues on the other two are the same that we're  
9 objecting to, so it will apply across the Board.

10 The first is -- if you see that Number 1, that  
11 section that's highlighted from the 76 to 77 -- it's the third  
12 page here. If you go to mine, the one I've provided, I've  
13 highlighted it for you, the third page. There you go, where  
14 it says Number 1.

15 And what he's essentially doing, Your Honor, is  
16 providing an expert opinion on DFUs. And Goodwin has  
17 specifically addressed that in the pre-trial order in this  
18 case. And what he has said is that a doctor such as a  
19 urologist or a urogynecologist is not qualified to opine that  
20 a product warning was adequate merely because it included the  
21 risk he had observed in his own practice.

22 So, what Judge Goodwin consistently has held is that  
23 treating doctors are not DFU experts or labeling experts and,  
24 therefore, prohibited their testimony. And that's directly  
25 what this goes to.

—Colloquy—

1 THE COURT: So, you all are offering that?

2 MR. BONASSO: We are, Your Honor. If you look at --  
3 do you have the plaintiffs' designation there?

4 THE COURT: I just have what Mr. Love just handed me.

5 MR. BONASSO: Okay. Let me hand you the  
6 plaintiffs' -- this is both sets, but the plaintiffs'  
7 affirmative designation.

8 This is the specific question, Scott. It's Page 291.  
9 Ordinarily, I agree with the position of the plaintiff, but  
10 the plaintiff has opened the door by asking some questions at  
11 Page 291. "When you're deciding what device to use, you're  
12 allowing the representation of the manufacturer." And then  
13 specifically -- they ask a specific question about the Obtryx,  
14 and then they say, "Did you rely on the Directions for Use  
15 published by Boston Scientific?"

16 This answers it and the answer is, "Yes." So, then  
17 this answer is, "Do you --" and I asked the question, or  
18 designated the question, "Do you consider it to have  
19 shortcomings?"

20 And the information conveys, "Do you consider, do you  
21 consider it to have any shortcomings in the information it  
22 conveys or provides?"

23 In other words, Your Honor, this is simply responding  
24 to a direct question about relying upon the DFU when the  
25 door's been opened. I think we've -- he says he relied on it.

—Colloquy—

1 "Did you have any criticisms of it?" "No."

2 MR. LOVE: Go ahead.

3 THE COURT: I'm going to preclude the testimony. The  
4 Judge has been clear in excluding it. I think that the  
5 treating physician is not in a position to criticize the DFU.

6 But I am also, Mr. Love, going to -- in light of  
7 that, I don't think that he should be asked about relying on  
8 the DFU.

9 MR. LOVE: Okay. If -- I have a burden of proof and  
10 we have the learned intermediary that applies in this case.

11 THE COURT: Right.

12 MR. MONSOUR: The question I asked is, "Do you rely  
13 upon the DFU?" Now, if he says, "No," my case gets kicked on  
14 summary judgment. In order to satisfy the learned  
15 intermediary, I've got to say, "Do you rely upon it? And if  
16 it would have contained this, would you have changed your  
17 practices?" That's learned intermediary 101. It has nothing  
18 to do with --

19 THE COURT: I'm sorry. I'm being rude to you. Go  
20 ahead.

21 MR. LOVE: So, in conclusion, I mean, it has nothing  
22 to do with him being an expert. He has to rely upon it in  
23 order to get me to the next step.

24 THE COURT: And you've convinced me that I am  
25 incorrect. I am striking or precluding any testimony

## —Colloquy—

1 regarding any criticism by this doctor of the DFU consistent  
2 with the Court's prior rulings and I preserve the defendant's  
3 objection and exception to that.

4 MR. LOVE: The next section --

5 THE COURT: Ms. Weiler.

6 MS. WEILER: There is a similar comment in the  
7 Lassere designation for plaintiff -- for defense, rather.  
8 However, there is a distinctive one thereafter that's not as  
9 to the DFU, but it's a criticism as to the adequacy of the  
10 product separately.

11 MR. LOVE: That goes to my next issue.

12 MS. WEILER: Okay. Go ahead.

13 MR. LOVE: The next issue is having urogyns or  
14 treaters testify as to the safety or efficacy of the product.

15 THE COURT: Uh-huh.

16 MR. LOVE: Judge Eifert has been clear here too. And  
17 what she has said specifically with respect to this issue is  
18 that you've got a treater who's going to give opinions outside  
19 the scope of their treatment. And you're supposed to provide  
20 some type of report she says.

21 But when you have a treater go on and you ask him  
22 about the safety and efficacy, that really isn't a question  
23 that has anything to do with the, his experience or his  
24 treatment of the patient.

25 And she's making a distinction between what has your

## —Colloquy—

1 experience been as opposed to is the DFU -- is the Obtryx  
2 sling safe and effective.

3           So, if you go to the next section here, Number 2  
4 where it says "Eifert: With regard to polypropylene, you have  
5 found in your research and literature indicates that  
6 polypropylene is an acceptable product to use with mesh," and  
7 goes down and continues. And he says, "Right."

8           Now, he can certainly say in his experience based  
9 upon the population I've had a certain incident rate. But  
10 what that question is really getting at is based upon your  
11 evaluation of the literature and your practice, you think that  
12 the product is safe. And that's exactly what Eifert has said  
13 crosses the line.

14           THE COURT: Mr. Bonasso.

15           MR. BONASSO: Your Honor, they asked the question,  
16 "If you are not told about all the risks inherent to a  
17 product, are you able then to pass those risks along to the  
18 patients adequately?" The answer was, "No."

19           This question -- that's half of the learned  
20 intermediary.

21           THE COURT: Uh-huh.

22           MR. BONASSO: What comes from the manufacturer,  
23 that's half of the learned intermediary equation. The other  
24 half is what the doctor has done.

25           And, so, again, I think when they raised the question

## —Colloquy—

1 and asked half of the formula about the manufacturer's  
2 conduct, I believe the doctor can say, "Well, I also have some  
3 duty," as we know he does.

4 He acknowledges he did that and he relied on what he  
5 found and what his research showed, that it was acceptable to  
6 use with mesh.

7 So, I think that when they are driving the witnesses  
8 that Boston Scientific, Boston Scientific supposedly did not  
9 tell them, that's part of it. And I think that may be  
10 relevant. But the other part is -- the other half of the  
11 learned intermediary is the duty of the physician.

12 MR. LOVE: And that's exactly -- this is what's going  
13 to happen. That's absolutely 100 percent incorrect. There's  
14 only one duty here and it's the duty of the manufacturer to  
15 warn physicians.

16 There is no corresponding duty for physicians to  
17 research and do their own research about the adequacy of the  
18 product. There's one duty.

19 The question the jury is going to be asked is: Did  
20 the manufacturer adequately warn the physician, not did the  
21 physician do his research. It's not a joint -- that's  
22 actually why it's so misleading and prejudicial because  
23 they've been telling the jury the whole trial that it's the  
24 doctor's obligation. But that's not going to be a question  
25 the jury has to answer.

## —Colloquy—

1 MR. BONASSO: Well, --

2 THE COURT: Anything further, Mr. Bonasso?

3 MR. BONASSO: Yes, Your Honor. The failure to warn  
4 claim -- the failure to warn claim and the proximate cause  
5 issue are tied to what the doctor learned from his own  
6 experience and his own research.

7 So, it may go to their claim, but then on the defense  
8 side we had the ability to show the doctor enlightened himself  
9 by either experience or research. And that is why we think it  
10 comes in as part of our defense on the learned intermediary.

11 THE COURT: Again, I'm going to preclude it finding  
12 that, first of all, it's been excluded by Judge Eifert, and I  
13 think appropriately so. Given the elements of the claim, the  
14 claims of these plaintiffs, Mr. Love is correct. He does have  
15 the burden. He has the burden to prove failure to adequately  
16 warn.

17 I find that the responses, or the questioning that's  
18 been highlighted here and excluded by Judge Eifert does not,  
19 is not appropriate. If we were in a criminal case, I would  
20 tell you that it's, to some degree, burden shifting.

21 And I say that only as an analogy so that you will  
22 know what I'm talking about and you have an idea of my  
23 reasoning. I do not believe that the highlighted sections  
24 which have been pointed out here at the bottom of the page is  
25 appropriate. And I exclude it, preserving my objection and



## —Colloquy—

1 exception for the defendant.

2 MR. LOVE: The last issue, Your Honor, is the next  
3 page and it's the section that starts essentially on 315. But  
4 I think for our purposes, the whole, this whole line of  
5 questioning.

6 If you go down to 317/16, the question starts, "If  
7 they said." "If they said the statement was not based upon  
8 any scientific data."

9 MS. WEILER: Which line is that?

10 MR. MONSOUR: 317/16 is where the question starts.

11 THE COURT: All right. "Would it affect your view."

12 MR. LOVE: I've got to back up a little bit.

13 You've heard a little bit about Frank Z, the Chevron  
14 Phillips employee. And what they've done in all three of  
15 these depositions is suggested to the doctor that Frank Z said  
16 that the MSDS wasn't based upon any scientific data.

17 Well, what Judge Goodwin has specifically addressed  
18 with respect to that statement in our motion to exclude, on  
19 their motion to exclude the MSDS he says, "Boston Scientific  
20 contends that Mr. Z unequivocally states that the caution was  
21 not added based on the scientific concerns. However, Boston's  
22 reading of that testimony is not an accurate reflection of his  
23 opinions. Mr. Z clearly indicates he has no knowledge of who  
24 wrote it or when it was written."

25 So, by asking these questions in light of Judge

—Colloquy—

1 Goodwin's finding that they're absolutely misrepresenting what  
2 Frank Z said, it's only going to cause the jury confusion, be  
3 misleading and prejudicial because what they're suggesting to  
4 the jury through that question is Chevron Phillips found that  
5 there's no scientific basis, and they absolutely did not. And  
6 that's what Judge Goodwin recognized.

7 THE COURT: Mr. Bonasso.

8 MR. BONASSO: Your Honor, he had asked a few  
9 questions. "If you had been made aware by the group they  
10 purchased the mesh from --" and I'm paraphrasing.

11 MR. MONSOUR: Read it directly.

12 MR. BONASSO: "If Boston Scientific had been made  
13 aware by the group that they purchased the polypropylene mesh  
14 from that the mesh was not to be used in medical applications,  
15 would you have expected to have been told that?"

16 "Yes."

17 "If Boston Scientific had been made aware by the  
18 manufacturer of the polypropylene mesh that the mesh was not  
19 to come in contact with human fluids or tissue, would you have  
20 expected them to tell you that?"

21 "Yes."

22 "If you had known when you were the treating -- when  
23 you were treating Ms. Tyree that the manufacturer of the mesh  
24 had told Boston Scientific it was not to be used in medical  
25 applications, would you have chosen a different product for

## Colloquy

1 Ms. Tyree?"

2 He said, "Yes."

3 My questions -- I asked him whether he would  
4 reevaluate that position in light of two things. One is what  
5 Mr. Zakrewski said. That testimony is going to be read in  
6 this courtroom.

7 And then, secondly, because of what Doreen Rao has  
8 said when she was here, she also said -- well, I'm going to  
9 start with her. She said that she called the company and  
10 asked if they had changed any formulations. It said, "No."

11 She asked if there were any safety reasons or  
12 concerns. And she said they told her there were no safety  
13 concerns. The company said, told her there were no safety  
14 risks with the product.

15 Now, whether the company says those things in light  
16 of what they said on the MSDS, this doctor ought to be allowed  
17 to at least say, "If I knew there was either testimony about  
18 testing, safety concerns, scientific concerns," that come out  
19 of Mr. Zakrewski's testimony or, yes, testimony and Ms. Rao's  
20 testimony, which is already in, then when Zakrewski's  
21 testimony comes in they will be in a position to evaluate what  
22 Dr. Luby has said about, "Well, yeah, if this is -- if you  
23 tell me this, then, yes, then this is what I say. But, on the  
24 other hand, if there's more to it, I would reevaluate." I  
25 think that is for the jury to hear.

## —Colloquy—

1 MR. MONSOUR: Real quick. First of all, --

2 THE COURT: Are you done?

3 MR. BONASSO: Yes.

4 THE COURT: Go ahead.

5 MR. LOVE: The three questions I asked he read to you  
6 are facts. They're factually accurate. With respect to this,  
7 this has nothing to do with Doreen Rao. This is testimony  
8 that was taken months ago based upon Frank Z's testimony. And  
9 they purposefully mislead the doctors by suggesting that Frank  
10 Z said something he didn't say which is what Judge Goodwin  
11 recognized.

12 THE COURT: All right. It's deposition testimony. I  
13 agree that it is not in any way, so far as I can determine,  
14 based on Dr. Pence's testimony, although you've read the  
15 transcript. I don't believe that was called -- well, that was  
16 in-court testimony which would not have been called to the  
17 attention of a witness in terms of asking whether or not it  
18 would have caused him to reevaluate.

19 The Court is -- I recall reading that ruling, Judge  
20 Goodwin's opinion on the motion *in limine*, and he does  
21 indicate that -- I won't go with Mr. Love in terms of it being  
22 intentionally misleading, but that it does not include the  
23 full testimony of the witness.

24 For that reason, I will preclude it and preserve an  
25 objection and exception.

## —Colloquy—

1 MR. LOVE: Thank you, Your Honor.

2 MS. WEILER: To clarify, the examples that Mr. Love  
3 has brought up have been exclusive to Dr. Luby. There are  
4 differences in language, certainly, with regards to two of the  
5 examples he's just cited, two and three, in connection with  
6 the other transcripts.

7 Up until this moment, I wasn't aware that there was  
8 any challenge to those other two transcripts. And, so, I need  
9 clarification as to whether that is actually the case.

10 MR. LOVE: Yes. The answer is absolutely, yes. I  
11 think if you give us a few minutes -- your rulings are pretty  
12 clear. I think between me, Eva, and Mike we can work through  
13 this and get these depositions --

14 THE COURT: If you all have problems, let me know and  
15 I'll quickly resolve them.

16 MS. WEILER: Thank you, Your Honor.

17 MR. LOVE: Thank you, Your Honor.

18 One other issue. I'm sorry.

19 THE COURT: You all need how much time?

20 MR. LOVE: If you can give us 15 minutes.

21 THE COURT: All right. Another issue?

22 MR. MONSOUR: Yes. Your Honor, we're going to put on  
23 Ms. Campbell, one of the plaintiffs, this afternoon. She has  
24 had hernia mesh that has been implanted in her before and  
25 after her Obtryx sling. And the defendants are going to go

## —Colloquy—

1 into that.

2 We believe that they should not be able to go into  
3 that because it's, A, it's a different mesh. It's in a  
4 different area of the body. It's not Boston Scientific. It's  
5 completely different. There's learned intermediary issues.

6 And, so, we don't think that they should be -- we  
7 don't think they should be permitted to go into that. It's  
8 very confusing. It's very prejudicial. This case is about  
9 the Obtryx. That's what it's about.

10 THE COURT: Mr. Strongman, you've got it?

11 MR. STRONGMAN: I've got it.

12 THE COURT: Go ahead.

13 MR. STRONGMAN: Thank you, Your Honor.

14 With regard to the hernia mesh issue, the mesh that  
15 Ms. Campbell has received is polypropylene mesh. So, we've  
16 heard about degradation. We've heard about the body's  
17 reaction to mesh.

18 And, so, the relevance goes to the fact, that, A, she  
19 was willing to have polypropylene mesh in her body and, B,  
20 she's not having any problems with it.

21 They aren't claiming any problems with it, but we've  
22 had plaintiffs' experts come in and talk about degradation and  
23 the various things that happen to polypropylene in general in  
24 your body.

25 So, to the extent that they're going to make that

## —Colloquy—

1 materials case, we think it's relevant.

2 THE COURT: Anything further, Mr. Monsour?

3 MR. MONSOUR: No.

4 THE COURT: I'm going to permit the testimony. And I  
5 permit it because it is a product that's been complained of.  
6 Although the jury will weigh the totality of the  
7 circumstances, we have heard testimony that it is, in part,  
8 the environment of the vagina that causes this breakdown of  
9 the mesh. They've also heard testimony regarding mesh being  
10 used in hernia surgeries.

11 I'm going to permit it. And then based on the  
12 totality of the circumstances, the jury will be able to make  
13 its determination one way or the other. And I preserve the  
14 plaintiffs' objection and exception to that.

15 MR. MONSOUR: Okay. Thank you, Your Honor.

16 THE COURT: Any other matters?

17 MR. STRONGMAN: No.

18 MR. MONSOUR: No, Your Honor.

19 THE COURT: Thank you.

20 Ms. Wagstaff, you were very eloquent.

21 MS. WAGSTAFF: Excuse me?

22 THE COURT: You were very eloquent.

23 MS. WAGSTAFF: I do my best.

24 (Sidebar concluded.)

25 THE COURT: Counsel, for those of you who are not

—Walker - Cross - Adams—

1 working on the video deposition, I believe that there is a  
2 correction that needs to be made in the record regarding  
3 Exhibit 448.

4 MR. MONSOUR: I believe that's accurate, Your Honor.  
5 I think the other day when I was proffering Dr. Rosenzweig, I  
6 referred to the exhibit as 444, and in reality it's 448. And  
7 your staff so kindly pointed out my mistake and I appreciate  
8 that.

9 THE COURT: All right. Are there other matters with  
10 respect to exhibits that we can take care of?

11 (No Response)

12 THE COURT: All right. Thank you all.

13 (A recess was taken from 2:07 p.m. until 2:17 p.m.)

14 (The jury returned into the courtroom at 2:17 p.m.)

15 THE COURT: Mr. Adams.

16 MR. ADAMS: Thank you, Your Honor. May it please the  
17 Court.

18 THE COURT: Yes, sir.

19 BY MR. ADAMS:

20 Q. Dr. Walker, before we broke we were preparing a  
21 chart regarding Ms. Wilson's prior medical conditions.  
22 And I will note that I've run out of space. So, the  
23 last couple of entries I'm going to start over on the  
24 next page.

25 And I put -- I went up to verify that the records are



—Walker - Cross - Adams—

1 in the right order so we could move through this pretty  
2 quickly.

3 The next record that I want to refer you to along in  
4 our chronology is dated February 3rd of 2014. And that is a  
5 medical record from Charleston Area Medical Center from the  
6 emergency room. Do you see that?

7 A. Yes, sir.

8 Q. If we could put that up. And February 3rd, 2014, and if  
9 we could blow up the first highlighted area, it says, "Chief  
10 complaint, back pain. History of present illness. This is a  
11 46-year-old female who presents with pain in her lower back  
12 which she says has been actually going on since 2011."

13 And let's refer down to about the center of that  
14 paragraph. These complete documents will be in evidence, but  
15 I wanted to point out -- it says -- and if you could -- well,  
16 we can read along. It says, "She no longer had pain in the  
17 pelvis anteriorly but her pain was now centered in her back,  
18 so she was referred to a back specialist."

19 Do you see where I'm reading, Doctor?

20 A. Yes, sir, I see that.

21 Q. And then where she describes her pain on this occasion is  
22 down here towards the bottom. It says, "She says it feels as  
23 if someone has put their hand down her throat into the bottom  
24 of her stomach and pulling."

25 Did I read that correctly?

—Walker - Cross - Adams—

1 A. Yes, sir, you did.

2 Q. All right. And that's far different than any type of  
3 sharp pain that you found when you put your finger on the  
4 anterior part of her vagina and, according to you, she almost  
5 shot off the table. Correct?

6 A. Correct, sir.

7 Q. And over on the next page -- by the way, this is about,  
8 this is about three months before you visit with her; correct?

9 A. Correct, sir, correct.

10 Q. Okay. And then if we go over to "Diagnosis" on the next  
11 page, it says, "Chronic low back pain, acute exacerbation."  
12 Did I read that correctly?

13 A. Yes, sir.

14 Q. So, I'm going to put "February 3rd, 2014, ER, chronic low  
15 back pain." And I'm just going to make a reference of  
16 "stomach pulling" for that quote that we just read. Fair  
17 enough?

18 A. That's fair, sir.

19 Q. Okay. And the next record we have is dated February 4th  
20 of 2014 and this is from Dr. Jagannath; correct?

21 A. Correct, sir.

22 Q. And at the top if we could blow it up so the jury can  
23 verify the date, we see February 4th, 2014. Then let's go to  
24 the next paragraph.

25 It says, "46-year-old female is post-menopausal for a

—Walker - Cross - Adams—

1 year, has had pain in low back, pain in presacral area for few  
2 months, radiated down both gluteals. MRI showed disc disease  
3 and has seen Dr. Christiano."

4 Did I read that correctly?

5 A. Yes, sir, you did.

6 Q. And the next sentence it says, "She used to have urgency  
7 of urine and incontinence which has now resolved."

8 Did I read that correctly?

9 A. Yes, sir.

10 Q. Okay. So, I'm going to write "2-4-14 low back." But in  
11 the same column for our incontinence issues, I'll put the same  
12 date and "none" for no urinary issues. Okay? Fair?

13 A. Okay, sir.

14 Q. And then down at the bottom on the next portion it  
15 says -- if you can read the next portion, it says, "Backache  
16 and radiation down both gluteals, no hematuria, no dysuria,  
17 some nocturia." Correct?

18 A. Correct, sir.

19 Q. And then under the "Ortho" section it says, "Back spasms  
20 over lumbar spine." And then it gives some figures for the  
21 areas of the spine; correct?

22 A. Yes, sir.

23 Q. And then down at the bottom it says, "I am unable to  
24 explain her symptoms." Correct?

25 A. Correct, sir.

—Walker - Cross - Adams—

1 Q. That's Dr. Jagannath; correct?

2 A. Yes, sir.

3 Q. I have written down, "I am unable to explain symptoms."

4 Did I read that correctly?

5 A. Correct, sir.

6 Q. That's fair; right?

7 A. Yes, sir, you read it correctly.

8 Q. All right. Then the next record that we have, the second

9 to the last record is February 18th of 2014; correct?

10 A. Yes, sir.

11 Q. That's when she goes back to Dr. Bhanot; correct?

12 A. Yes, sir.

13 Q. And if we can blow up the date real quick, February 18th,  
14 2014. She goes back to Dr. Bhanot. And if we can blow up the  
15 highlighted area, it says, "Patient symptoms have completely  
16 improved regarding urination."

17 Did I read that correctly?

18 A. Yes, sir.

19 Q. Okay. So, "2-18-14, none." I put this in the  
20 urination -- in the urinary incontinence column that Dr.  
21 Bhanot observed no problems. Correct?

22 A. Yes, sir.

23 Q. And then it says -- in the next area it says, "However,  
24 she still has spasms in the lower abdomen. And at the time,  
25 she has no sensations in her anal rectal area. These symptoms

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1 completely indicate that there is a partial neurogenic  
2 problems."

3 Did I read that correctly?

4 A. That's correct, sir.

5 Q. All right. And, so, according to -- at least according  
6 to Dr. Bhanot's records, he's indicating that he believes her  
7 problems, whatever complaints she has regarding these pain  
8 issues are somehow related to neurogenic problems; correct?

9 A. It's a nerve problem is what he's saying, sir. And he  
10 says here that he does not think this relates to her back.

11 Q. He says, "However, the patient has been evaluated by her  
12 spine in the back -- by her spine in the back doctor has  
13 convinced this patient that this is not related to her back  
14 though she has significant back problems."

15 Did I read that correctly?

16 A. Correct, sir.

17 Q. All right. He's saying that the doctor convinced the  
18 patient that the problems are not related to the back;  
19 correct?

20 A. That's what he says, yes.

21 Q. Yeah. He's not saying that she does not have back  
22 problems. Agreed?

23 A. He's saying that she has significant back problems.

24 Q. Okay. And then our last record -- and thanks for your  
25 patience on this. Our last record is from May 18th of 2014;

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1 correct?

2 A. Yes, sir.

3 Q. And May 18th, 2014, she is actually referred to a  
4 neurologist; correct?

5 A. That's correct, sir.

6 Q. And the neurologist -- if we can put up the record so the  
7 jury can see -- the date is May 18th, 2014, less than two  
8 months before the time you examined her; correct?

9 A. That's correct, sir.

10 Q. And at that time, it says, "The back pain is in the  
11 middle and off to the sides of the upper lumbar region above  
12 the waistline. It starts in the middle and shoots off to the  
13 sides."

14 Did I read that correctly?

15 A. That's correct, sir.

16 Q. So, in other words, the pain is in her, the middle of her  
17 back and it radiates out to the side; correct?

18 A. Correct, sir.

19 Q. That's the exact opposite of what you found only two  
20 months later when you said that the pain started right at the  
21 anterior or the top of the vagina and then shot up the other  
22 way; correct?

23 A. Correct, sir.

24 Q. And then it says, "She says she does have some numbness  
25 and occasionally the left leg feels dead. And when the pain

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1 gets severe, she cannot move the left leg."

2 Did I read that correctly?

3 A. That's correct, sir.

4 Q. Now, Ms. Wilson didn't tell you any of that information  
5 regarding the problems with the pain in her back and the  
6 numbness in the leg and the other issues related to potential  
7 sciatica; correct?

8 A. Correct, sir.

9 Q. And certainly if she would have told you that  
10 information, your findings may have been different; correct?

11 A. Well, I would have taken it into consideration, as I  
12 always do, sir, but it wouldn't have changed my final  
13 diagnosis regarding the root cause of her pain which was the  
14 mesh tape implant.

15 Q. Okay. But at least you'll give us that you would have at  
16 least considered that information; correct?

17 A. Always do, sir.

18 Q. At a minimum, you would have liked to have had that  
19 information presented to you from Ms. Wilson; correct?

20 A. It would have assisted me in ruling in and then ruling  
21 out potential diagnoses. So, I will always welcome these  
22 things, sir, because I take very serious consideration of all  
23 potential causes of her pain.

24 Q. Okay.

25 A. So, by taking into consideration every factor, I would

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1 have an appreciation of that. But at the end, it still would  
2 not change my final expert opinion that the root cause of her  
3 pain is the mesh tape eroding or exposing itself into the  
4 vagina.

5 Q. Okay. But at a minimum, you would agree with me that you  
6 certainly would have wanted to know information like what is  
7 in this record about the pain originating somewhere in the  
8 middle of her back and actually shooting the opposite  
9 direction from what you've said; correct?

10 A. Correct, sir.

11 Q. That would have been nice stuff to have before you came  
12 in and took an oath and swore to tell the truth to this jury;  
13 correct?

14 A. Correct, sir.

15 Q. And as we started this examination, you would agree with  
16 me that that's the type of information that an expert like  
17 yourself should fairly consider when you're looking at both  
18 sides of the issue; correct?

19 A. Correct, sir.

20 Q. And you didn't have the opportunity to do that, though;  
21 correct?

22 A. I had the opportunity after I reviewed her medical  
23 records. And I, of course, had the opportunity from my  
24 counsel to amend my final opinion. But because it didn't  
25 change, I didn't have Mr. Monsour make any amendments to my



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1 final opinion.

2 Q. Right. Now, let's go back to these options between the  
3 cadaver tissue and the sling tissue.

4 A. Yes, sir.

5 Q. Now, when you are -- one of the fundamental things that a  
6 surgeon like yourself is trying to resolve with stress urinary  
7 incontinence is that you want to give support to the urethra;  
8 correct?

9 A. Yes, sir.

10 Q. And what happens is that the tissue that is underneath  
11 the urethra has lost its support ability because of age,  
12 because the lady had babies, because of a variety of different  
13 things; correct?

14 A. Yes, sir.

15 Q. And we talked before about how there's issues with the  
16 Burch procedure and the MMK procedure regarding that they're  
17 more invasive and there's a longer recovery time; correct?

18 A. Correct, sir.

19 Q. And when you do a sling using cadaver tissue, you would  
20 agree with me that what you are attempting to do is to put  
21 that device underneath the urethra to provide support;  
22 correct?

23 A. That's correct, sir.

24 Q. And as we looked at in those articles, what happens then  
25 is that there is a reaction inside the body to the presence of

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1 this cadaver tissue; correct?

2 A. Correct, sir.

3 Q. And that is a, what's referred to as a foreign body  
4 reaction; correct?

5 A. Correct. You have inflammation occurring and fibrosis,  
6 yes, sir.

7 Q. Right. So, even with a cadaver sling, the purpose -- one  
8 of the purposes of putting it in the body is to create a  
9 foreign body reaction; correct?

10 A. Correct, sir.

11 Q. And what happens then is that the body through the  
12 natural healing process has a foreign body reaction and it  
13 creates scarring; correct?

14 A. That's correct, sir.

15 Q. And, so, even if I were to look down and see a scar on my  
16 leg from when I fell down a long time ago, that is an example  
17 of a reaction that my body is having to a cut; correct?

18 A. That's correct, sir.

19 Q. And when scars happen, naturally the tissue contracts;  
20 correct?

21 A. That's correct, sir.

22 Q. And, so, with the cadaver slings, like in the articles  
23 that we talked about, when there's the foreign body reaction,  
24 there will actually be a contraction of the tissue in the area  
25 of where the cadaver sling is located; correct?

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1 A. Correct, sir.

2 Q. And it is that contraction and that mechanism of scarring  
3 that makes the tissue provide more support; correct?

4 A. Correct, sir.

5 Q. And that is the exact principle of polypropylene mesh  
6 that the tissue grows in between the pores; correct?

7 A. The tissue grows in between the pores and you have  
8 in-growth, that's correct, sir.

9 Q. And it is that in-growth that provides the support and is  
10 one of the reasons why this product is viewed as the gold  
11 standard by the majority of your peers; correct?

12 A. The in-growth process?

13 Q. Yes, and the fact that these products are safe and  
14 effective; correct?

15 A. Well, in my opinion, sir, I don't think they're safe and  
16 effective in my, in my opinion.

17 Q. Okay. But, obviously, the majority of your peers who  
18 consider it the gold standard consider this device to be safe  
19 and effective; correct?

20 A. That's some opinions that are by some urogynecologists,  
21 that's correct, sir.

22 Q. Not only some, the majority of them in the world;  
23 correct.

24 MR. MONSOUR: Your Honor, I object. He doesn't know  
25 the thought process of every urogynecologist in the world.

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1           THE COURT: Well, I would agree with that statement,  
2 but I overrule the objection in terms of -- I'm going to let  
3 him answer if he knows that statistic. And knowing that  
4 statistic would not be outside of the knowledge of anyone  
5 working in a particular profession, counsel.

6 BY MR. ADAMS:

7 Q. Let me put it to you this way. You know that every  
8 single major organization within the field of  
9 urogynecology, urology, and gynecology have endorsed the  
10 use of polypropylene mid-urethral slings for the  
11 treatment of stress urinary incontinence; correct, sir?

12 A. Yes, they have endorsed the option, sir, to be used, yes.

13 Q. And you know that that device is used by the majority of  
14 your peers in urogynecology and urology and gynecology;  
15 correct?

16 A. I would have to say -- I can't give you a percentage,  
17 sir. I don't really know. When you say "majority," I don't  
18 want to speculate, sir. I cannot give you a specific  
19 percentage. But I would say, yes, it is used as an option by  
20 my peers, my colleagues, yes. It is an option that is  
21 endorsed by the different institutions that I'm a member of.

22 Q. Okay. So, it's endorsed by AUGS. It's endorsed by IUGA.  
23 Correct?

24 A. As an option, yes, sir.

25 Q. Not only as an option, but it's endorsed as the gold

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1 standard for treatment; correct?

2 A. It is, it is -- yes, they have used that --

3 Q. Okay.

4 A. -- statement.

5 Q. I don't have any other questions for you at this time. I  
6 want to thank you for your patience, especially going through  
7 the chart.

8 THE COURT: Redirect, counsel.

9 THE WITNESS: Thank you, sir.

10 (REDIRECT EXAMINATION OF CHRISTOPHER WALKER BY MR. MONSOUR:)

11 Q. Ready?

12 A. Yes, sir.

13 Q. If one were to look at the AUGS editorial statement, you  
14 would actually fit into the 99 percent of physicians that use  
15 polypropylene mid-urethral slings; correct?

16 MR. ADAMS: Objection, Your Honor, this is leading.

17 THE WITNESS: Yes, sir.

18 THE COURT: The objection to leading is sustained,  
19 counsel.

20 BY MR. MONSOUR:

21 Q. Okay. Would you be a physician that falls into the  
22 99 percent that's listed in the AUGS statement?

23 A. Yes.

24 Q. And why is that?

25 A. Because I incorporate polypropylene slings as an option

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1 to be used for stress urinary incontinence.

2 Q. And it is as a last resort?

3 A. Yes, sir.

4 Q. Do you ever use it as a front-line treatment?

5 A. No, sir.

6 Q. Would the fact that you use it as a last resort, should  
7 someone take that as your endorsement of polypropylene  
8 mid-urethral slings?

9 MR. ADAMS: Objection. This is leading.

10 THE COURT: Well, he asked, "the fact that you use  
11 it," taking part of his last answer should that be interpreted  
12 as, this witness is free to answer "yes" or "no." It does not  
13 suggest the answer. So, for that reason, I overrule the  
14 objection.

15 Go ahead, please.

16 THE WITNESS: Thank you, Your Honor.

17 Mr. Monsour, would you mind repeating your question,  
18 sir?

19 BY MR. MONSOUR:

20 Q. Sure. Should the fact that you have used these  
21 constitute your endorsement of these polypropylene  
22 mid-urethral slings as a front-line usage?

23 A. No, sir.

24 Q. Okay. Now, we just talked about polypropylene  
25 mid-urethral slings generally. Now let's talk about the

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1 Obtryx. Okay?

2 A. Yes, sir.

3 Q. Now, you mentioned that several months ago you had a  
4 patient that was under general anesthesia and the hospital  
5 brought you the wrong sling.

6 A. Yes, sir.

7 Q. And the sling that you requested was called what?

8 A. It's called the Altis, A-l-t-i-s, sling.

9 Q. That sling is -- the Altis sling is not made with Marlex,  
10 is it?

11 A. To my knowledge, no, sir.

12 Q. Okay. The Altis sling -- let's talk about Obtryx and  
13 let's see what sets Obtryx apart from the competition. The  
14 Altis sling a transobturator sling?

15 A. The Obtryx sling, sir?

16 Q. Is the Altis a transobturator sling?

17 A. No, sir. It's a mini sling.

18 Q. Okay. How is that different?

19 A. Well, it does not go through multiple muscle groups. So,  
20 when you go through the obturator space, you're taking that  
21 helical and you're perforating and going through four muscle  
22 groups, at least four. Plus, you're now coming in contact  
23 with nerves and blood vessels.

24 The mini sling, it's a small piece of tape this big  
25 (indicating). And what it's trying to do is basically put

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1 stability to the back portion of the urethra.

2 Q. Okay. It's not this size (indicating) sling, is it?

3 A. No, sir. It's this size (indicating).

4 Q. Okay. Now, if we look at the Obtryx, not all  
5 mid-urethral polypropylene slings, but the Obtryx alone -- let  
6 me ask you this. Mr. Adams brought up the Schimpf article.  
7 Do you remember that?

8 A. Yes, sir, he did.

9 Q. Okay. And in the Schimpf article it's a meta-analysis.  
10 And in the meta-analysis it notes that -- if you look on  
11 Page -- it looks like it's E-7. It says, it says that -- if  
12 you look there for dyspareunia under the obturator approach,  
13 midway down -- do you see that?

14 A. Yes, sir.

15 Q. Okay. It says that, it says that mid-urethral slings --  
16 excuse me. The obturator sling has a dyspareunia adverse  
17 event rate of what?

18 A. Of .4 percent.

19 Q. Zero to .4 percent?

20 A. Zero to .4 percent, yes, sir.

21 Q. Okay.

22 MR. ADAMS: I'm sorry. What page are you on?

23 MR. MONSOUR: 71, E-7 about halfway down under  
24 "Dyspareunia."

25 MR. ADAMS: Got it. Thank you.



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1 BY MR. MONSOUR:

2 Q. All right. Now, if we look at the Cholhan study,  
3 the Cholhan study which was done by one of Boston  
4 Scientific's consultants reports a dyspareunia rate of  
5 24 percent. Are you aware of that?

6 A. Yes, sir.

7 Q. Now, if we look at this report -- if we look at the  
8 Cholhan study, the Cholhan study notes with regard to the  
9 Obtryx sling only that there is a previously unreported  
10 complication called periurethral banding. Are you aware of  
11 that?

12 A. Yes, sir, I'm aware of that.

13 Q. Okay. So, I'm going to write here "periurethral  
14 banding."

15 Now, if we look at Mr. Adams' meta-analysis, the  
16 Schimpf -- and it's looking at all the other mid-urethral  
17 slings -- it does not quote the Cholhan or the Ross study.  
18 Are you aware of that?

19 A. I'm aware of that, sir.

20 Q. Okay. If we look -- do any of these other ones list  
21 periurethral banding?

22 A. No, sir.

23 Q. Okay, all right. Now, if you were attempting -- if you  
24 were going to meet with a patient and a patient came to see  
25 you and you were in the last five percent of the people that

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1 you were going to look at -- everything else has failed,  
2 you're going to try a sling -- would you use a sling that has  
3 a 24 percent dyspareunia rate and causes periurethral banding  
4 versus its competitors that have a zero to .4 percent and no  
5 periurethral banding? Would you use this product?

6 A. No, sir, I wouldn't.

7 Q. Why would you not use that product?

8 A. I wouldn't use that product because in my expert opinion,  
9 that product has a very high rate of side effects,  
10 complications; namely, the issue of the periurethral banding,  
11 the issue of pain resulting from, from that banding process,  
12 especially pain with intimacy. We call that dyspareunia.

13 Q. Okay. Now, let me ask you this. You examined Chris  
14 Wilson; correct?

15 A. That's correct, sir.

16 Q. Does she have, does she have dyspareunia?

17 A. Yes, sir, she does.

18 Q. Does she have periurethral banding?

19 A. In my expert opinion, yes, sir, she has.

20 Q. Now, would it be a fair statement to say that all  
21 mid-urethral polypropylene slings are not equal? Is that a  
22 fair statement?

23 A. That's a fair statement, sir.

24 Q. Is it a fair statement that while you might use one, you  
25 wouldn't use the Obtryx?

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1 A. That's very fair, sir.

2 Q. Now, the hospital that brought you the Boston Scientific  
3 product instead of the one you requested, do you still treat  
4 patients there for stress urinary incontinence?

5 A. No, sir, I've taken my business away because they  
6 continue to have this preferential buying agreement with  
7 Boston Scientific. So, essentially they're forcing me to  
8 use a product --

9 MR. ADAMS: Objection, Your Honor. This is all  
10 hearsay. It's based on hearsay.

11 THE COURT: Any response to the objection?

12 MR. MONSOUR: It's his understanding as to what the  
13 hospital's arrangement is. He went there. He learned what  
14 the issue was. I mean, it's -- he's requested these products  
15 and he can't get them.

16 THE COURT: The objection to it being based on  
17 hearsay is sustained. Go ahead, please.

18 BY MR. MONSOUR:

19 Q. Okay. Let me ask it this way. When you go to that  
20 hospital, can you get the product you want to use?

21 A. No, sir.

22 Q. So, you've gone elsewhere?

23 A. I moved my business elsewhere, sir.

24 Q. Okay. Now, we heard a lot about several issues that  
25 could be causing -- let's talk about the first one. When you

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1 first got on the stand in your cross-examination I believe Mr.  
2 Adams started off with the topic of you are the first doctor  
3 to note pelvic pain in Ms. Wilson. Do you remember that?

4 A. Yes, sir.

5 Q. Okay. And your exam was -- what was the date of your  
6 exam?

7 A. My exam was May the 2nd, 2014.

8 Q. All right. So, Mr. Adams started off and said, "Look,  
9 before you recorded pain in this woman, nobody else was  
10 finding any pain." Do you remember that line of questioning?

11 A. Yes, sir, I remember that.

12 Q. Okay. Let's see if anybody else found any pain.

13 Now, exactly one year before on May 2nd, 2013, if we  
14 look on May 2nd, 2013, would you read what was found by Dr.  
15 Jagannath?

16 A. Dr. Jagannath says -- I'm sorry.

17 Q. Can you read it better now? Here, let me -- can you see  
18 it?

19 A. Okay.

20 Q. Can you read what it says here on May 2nd, 2013, exactly  
21 one year before you examined her?

22 A. "Has had recurrent lower abdominal pain radiating to left  
23 loin area. Has seen GYN, Dr. Sandhu and Dr. Bhanot."

24 Q. Okay. And if we look down below it says "lower abdominal  
25 pain unclear etiology." Correct?

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1 A. Yes, sir.

2 Q. That means they don't know what's causing it; correct?

3 A. Correct, sir.

4 Q. And then it says, "Will refer her to Dr. Bhanot to  
5 evaluate lower abdominal pain." Do you see that?

6 A. I see that, and to evaluate dyspareunia, burning with  
7 urination.

8 Q. Okay. So, a year before you saw her she was complaining  
9 of pain in the same region that you found pain. Is that a  
10 fair statement?

11 MR. ADAMS: Objection, Your Honor. This is leading.

12 THE COURT: The objection to leading is sustained.

13 Counsel, I will sustain it even though he's an expert  
14 with respect to those substantive opinions that he is giving.

15 MR. MONSOUR: Sure. I'll fix the question.

16 BY MR. MONSOUR:

17 Q. Does this record coincide with where you found pain  
18 in Ms. Wilson?

19 A. She has pain, sir, on the left lower quadrant of the  
20 anterior abdominal wall. She does have pain that radiates  
21 there. So, yes.

22 Q. So, let's look at Dr. Bhanot's records exactly three  
23 weeks later. Let's see what he said. Dr. Bhanot notes on  
24 May 23rd, 2013 -- what does he note there?

25 A. He says here she has suprapubic pain and urinary

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1 hesitancy frequency.

2 Q. What is suprapubic pain?

3 A. He's referring to pain in the pubic region and the  
4 hesitancy of urinary flow and frequency.

5 Q. Okay. When you -- is the suprapubic area an area where  
6 you found pain or radiating pain with Ms. Wilson?

7 A. It can be described anatomically in that area, sir.

8 Q. Okay. Now, if we look down below, Dr. Bhanot notes,  
9 "Abdomen soft tenderness of the suprapubic area more on the  
10 left side pelvic examination."

11 Did you -- when he notes "soft tenderness in the  
12 suprapubic area more on the left side," what side did you find  
13 pain on?

14 A. On the left side also, sir.

15 Q. Okay. Now, you were asked numerous questions as to  
16 whether or not a cystocele could have caused the problems that  
17 she's having. Do you remember that?

18 A. Yes, sir.

19 Q. When you examined her, did you find a cystocele?

20 A. No, sir, I did not find a cystocele.

21 Q. If we continue reading with Dr. Bhanot's records, did he  
22 find a cystocele?

23 A. No, sir, he did not.

24 Q. Now, when Dr. Bhanot goes -- or she visits Dr. Bhanot, he  
25 ultimately recommends a urethrolysis; correct?

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1 A. That's correct, sir.

2 Q. All right. And a urethrolysis is what?

3 A. It's a procedure whereby he's trying to cut the mesh  
4 sling.

5 Q. Okay. So, when we look at the medical record of the  
6 procedure, the pre-operative diagnosis, he notes on here --  
7 Dr. Bhanot notes this patient had a TOT anterior repair done  
8 about three and a half years ago. That's the Obtryx; correct?

9 A. That's correct, sir.

10 Q. "She basically has a urethral stenosis stricture as a  
11 result of scarring from the tape." Do you see that?

12 A. Yes, sir, I see that.

13 Q. Now, when Dr. -- you in this case have pointed to what as  
14 being the culprit of Chris Wilson's problems?

15 A. Her mesh sling tape implant.

16 Q. What is Dr. Bhanot pointing to in this medical record?

17 MR. ADAMS: Objection, Your Honor.

18 THE WITNESS: The same thing.

19 MR. ADAMS: Objection. That -- well, he can read  
20 from the record, but I don't think he can say what Bhanot is  
21 thinking.

22 THE COURT: I don't -- I overrule the objection and I  
23 find that it is -- the question is not asking him to testify  
24 as to what Dr. Bhanot was thinking, but he has indicated that  
25 he's reviewed these records. And if he can tell from his

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1 review what he's pointing to, I think as a physician he is  
2 capable of answering that question without getting into the  
3 doctor's thinking.

4 For that long, tortured reason, I overrule the  
5 objection.

6 Go ahead, Mr. Monsour.

7 MR. ADAMS: Your Honor, for the record, I should have  
8 referred to him as Dr. Bhanot. I'm sorry.

9 THE COURT: I'm sorry?

10 MR. ADAMS: I should have referred to him as Dr.  
11 Bhanot.

12 THE COURT: Yes, sir.

13 MR. ADAMS: I'm sorry.

14 BY MR. MONSOUR:

15 Q. Okay. Now, in Dr. Bhanot's records you've already  
16 talked about what he pointed to. Did he point out that  
17 her uterus was the problem?

18 A. No, sir.

19 Q. Did he point out that fibroids were the problem?

20 A. No, sir.

21 Q. Did he point out that a cystocele was the problem?

22 A. No, sir.

23 Q. If she was having a problem with her uterus, what is the  
24 surgery that doctors perform to fix that problem?

25 A. The surgery would be -- one of the options would be a



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1 hysterectomy.

2 Q. Okay. In looking at the medical records, has Dr. Bhanot  
3 done a hysterectomy to address any of the issues of Ms.  
4 Wilson?

5 A. No, sir.

6 Q. If a, the uterus and the fibroids that Mr. Adams  
7 mentions, if those were the culprits, wouldn't a hysterectomy  
8 be the best way to address the problem?

9 A. It would be, sir.

10 Q. Now, if we go back a few months later in August of 2013,  
11 we note again -- and this is from Dr. Jagannath's office. He  
12 notes "suprapubic pain for a few years." Do you see that?

13 A. Yes, sir.

14 Q. And, again, that's before -- is that before or after you  
15 saw Ms. Wilson?

16 A. Before, sir.

17 Q. Okay. And if we look later on that month, this is also  
18 Dr. Bhanot's records when he performs a pelvic examination?

19 MR. ADAMS: I'm sorry. What is the date?

20 MR. MONSOUR: 8-27-2013.

21 BY MR. MONSOUR:

22 Q. When he performs a pelvic examination, what does he  
23 note?

24 A. He states that it reveals the patient has tenderness on  
25 the left side during his pelvic exam and there is no

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1 cystocele.

2 Q. Okay. Again, which side did you note the problems on  
3 primarily?

4 A. The left side, sir.

5 Q. And you found no cystocele?

6 A. Correct, sir.

7 Q. Now, if we note during the surgery -- and you talked  
8 about tissue incorporation. When he performs the surgery,  
9 talking about how it sprung open, he also makes another  
10 finding which I've highlighted. Can you see that?

11 A. Yes, sir.

12 Q. And what does it say?

13 A. "There was a significant amount of scarring."

14 Q. Okay. Now, Mr. Adams just talked to you --

15 MR. ADAMS: What is the date of that, Mr. Monsour?

16 MR. MONSOUR: 8-28.

17 MR. ADAMS: Okay. Thank you.

18 BY MR. MONSOUR:

19 Q. Mr. Adams was talking when he sat down about tissue  
20 integration and scarification. Do you remember that?

21 A. Yes, sir.

22 Q. Is there a difference between the right amount and too  
23 much?

24 A. Yes, sir.

25 Q. When a physician makes a note of a significant amount of

—Walker - Redirect - Monsour—

1 scarring, is that something that is significant to you as a  
2 physician interpreting those records?

3 A. It is.

4 Q. Why?

5 A. It's indicative that he's concerned that there is too  
6 much scarring. He's concerned that the reaction, the  
7 patient's post-operative reaction is out of the realm of  
8 normal.

9 Q. Now, when somebody has a significant amount of scarring  
10 or too much scarring, can that cause them problems?

11 A. Yes, sir.

12 Q. If we look in early February of this year, Dr. Bhanot  
13 notes spasms in the lower abdomen. Do you see that?

14 A. Yes, sir.

15 Q. Now, can spasms in the lower abdomen be caused by nerve  
16 irritation?

17 A. Yes, sir.

18 Q. Can it be caused by excessive scarring irritating the  
19 nerves?

20 A. Yes, sir. The excessive scarring is incorporated in the  
21 nerve, so you have nerve entrapment. So, yes, you can get  
22 that symptom.

23 Q. Okay. Now, --

24 MR. ADAMS: Mr. Monsour, would you -- and I  
25 apologize. The date of the last record.

—Walker - Redirect - Monsour—

1 MR. MONSOUR: 2-18 of 2014.

2 MR. ADAMS: Thank you.

3 BY MR. MONSOUR:

4 Q. Now, if we look finally -- and this is after you  
5 examined Ms. Wilson. We note -- and this is in July of  
6 this year. He notes that she's status post  
7 transobturator surgery in 2010 and has developed pain in  
8 the vagina slash left groin area for two years. Do you  
9 see that?

10 A. Yes, sir.

11 Q. And then it notes she still keeps having pain in the left  
12 groin area radiating to the left SI joint area. Is that  
13 right?

14 A. Yes, sir.

15 Q. SI joint is the sacroiliac joint; correct?

16 A. That's correct, sir.

17 Q. That's the bottom of the back; right?

18 A. Yes, sir.

19 Q. Tailbone?

20 A. Yes, sir.

21 Q. Let me ask you this. With regard to the AUGS statement,  
22 do you have any criticisms of it generally?

23 A. I have some concerns, yes, I definitely do.

24 Q. What are your concerns with it?

25 A. My concerns include the fact that they are basing their

—Walker - Redirect - Monsour—

1 statement on data over a period of one year. We all know that  
2 these are permanently designed implants. But, yes, they are  
3 referencing studies over a period of one year.

4 The other thing is that, you know, when we go to these  
5 conferences, my colleagues who are -- actually, some of them  
6 are authors of the position statement. They are, they are the  
7 benefactors from some of these manufacturers, including Boston  
8 Scientific.

9 So, the thing is that a lot of these authors who were  
10 the ones who wrote the document, they were not impartial.

11 Q. Okay. Would you consider the AUGS statement biased in  
12 light of the fact that its authors have ties to the mesh  
13 manufacturer?

14 MR. ADAMS: Objection. That's leading.

15 THE COURT: The objection to leading is sustained  
16 with respect to that question, counsel.

17 BY MR. MONSOUR:

18 Q. Why would you consider -- why would you consider  
19 this statement biased in light of the ties to industry?  
20 Why?

21 MR. ADAMS: That's also leading, Your Honor.

22 THE COURT: Counsel, come to the bench for a moment,  
23 please.

24 (The following occurred at sidebar.)

25 THE COURT: I didn't want to say this in front of the

—Walker - Redirect - Monsour—

1 jury because I believe -- and I want to let him correct me if  
2 I'm wrong -- he is saying the last question is leading because  
3 this witness has not yet said that he considers this  
4 particular report to be biased.

5 MR. MONSOUR: Okay.

6 THE COURT: But it's incorporated in your question.  
7 Do I understand you?

8 MR. ADAMS: You are correct.

9 MR. MONSOUR: Okay. I'll fix it. Okay.

10 (Sidebar concluded.)

11 BY MR. MONSOUR:

12 Q. I'll give you an option. Do you consider the AUGS  
13 statement to be biased or unbiased?

14 A. I think it's biased.

15 Q. Why?

16 A. Well, the four or five authors who wrote it, every one of  
17 them is supporting the product and they are -- they are all  
18 beneficiaries from the manufacturers.

19 Q. Okay. The -- you were talking before about -- one of the  
20 questions that you were discussing with Mr. Adams or one of  
21 the topics was vaginal atrophy. Do you remember that?

22 A. Yes, sir.

23 Q. And I think the line of questioning talked about how the  
24 mesh was eroding into the vagina and whether or not atrophy  
25 would play a role in it. Do you understand -- do you remember

—Walker - Redirect - Monsour—

1 that?

2 A. Yes, sir.

3 Q. Now, did you look to see whether or not Ms. Wilson had  
4 vaginal atrophy?

5 A. I did, sir.

6 Q. Okay. Does she have that?

7 A. No, sir, she does not have vaginal atrophy.

8 Q. Okay. Her doctors prescribed her -- I think Mr. Adams  
9 said some sort of, what was it, estrogen?

10 A. Yes, sir, estrogen therapy.

11 Q. Are you aware if she's taking a type of estrogen?

12 A. She's taking a homeopathic estrogen cream.

13 Q. Can that help with vaginal atrophy?

14 A. If she had it, it certainly can. And she's using it to  
15 prevent it from occurring.

16 Q. Okay.

17 A. But she does not have atrophy, no, sir.

18 Q. Okay. The -- one of the points that you made, you were  
19 talking about your practice and sometimes how physicians will  
20 note whether or not they've had a problem with patients. Do  
21 you remember talking about that generally?

22 A. Yes, sir.

23 Q. Okay. And I don't think you were given a full chance to  
24 explain that. You talked about other doctors treating  
25 patients once problems develop. Do you remember that?

—Walker - Redirect - Monsour—

1 A. Yes, sir.

2 Q. Okay. How do you know that that is what happens?

3 A. Well, in my own experience, I get about 30, 30, 40 a  
4 month. Some of those patients are from the four  
5 urogynecologists in town. So, they're not my own patients.  
6 They're from the other doctors because they don't want to go  
7 back to the original implanting physician. And I understand  
8 patients are wanting somebody else with a fresh set of eyes to  
9 address their new problem.

10 Q. Okay. Do patients -- are a lot of the patients that come  
11 to see you with the problems that need to have their slings  
12 revised, are they referred to you by other doctors or do many  
13 of them just come on their own, find you and call you out?

14 A. A lot of referrals, sir, and also a lot of patients who  
15 find me from multiple methods, and they find me by word of  
16 mouth. They are able to -- there are different avenues for  
17 them to communicate, and they find me and seek me out.

18 Q. So, unless you or the patient calls back to the  
19 implanting physician, how is that implanting physician going  
20 to know that one of his former patients had to have a revision  
21 surgery?

22 A. They never know, sir, never know.

23 Q. That's all I have. Thank you, Dr. Walker.

24 THE WITNESS: Thank you, sir.

25 THE COURT: Doctor, you can step down. Thank you.



—Bernard Luby - By Video—

1 THE WITNESS: Thank you, Your Honor.

2 THE COURT: Call your next witness.

3 MR. LOVE: Your Honor, at this time we'd call  
4 Dr. Bernard Luby by videotaped deposition. And his  
5 deposition, the plaintiffs would proffer, is two minutes and  
6 58 seconds.

7 THE COURT: All right.

8 (THE VIDEOTAPED TESTIMONY OF **BERNARD LUBY** WAS PLAYED  
9 FOR THE JURY.)

10 MR. MONSOUR: That concludes the plaintiffs' offer,  
11 Your Honor.

12 THE COURT: Ms. Weiler.

13 MS. WEILER: Your Honor, Boston Scientific offers a  
14 very short response to plaintiffs' counter designation. It's  
15 four minutes long. Boston Scientific will offer the full  
16 testimony in its case.

17 (THE VIDEOTAPED TESTIMONY OF **BERNARD LUBY** CONTINUED  
18 TO BE PLAYED FOR THE JURY.)

19 MS. WEILER: That concludes Boston Scientific's  
20 counter designation.

21 THE COURT: All right. Mr. Love.

22 MR. LOVE: Our next witness will be Dr. Subhash  
23 Bhanot, one of the treating physicians in this case. And his  
24 deposition cut is three minutes and 45 seconds.

25 (THE VIDEOTAPED TESTIMONY OF **SUBHASH BHANOT** WAS

—Subhash Bhanot - By Video and Michael Lassere - By Video—

1 PLAYED FOR THE JURY.)

2 MR. MONSOUR: That concludes plaintiffs' offer, Your  
3 Honor.

4 MS. WEILER: Boston Scientific offers a counter  
5 designation for Dr. Bhanot of five minutes and 32 seconds with  
6 a balance of his full testimony to be played in our  
7 case-in-chief.

8 THE COURT: All right. Thank you.

9 (THE VIDEOTAPED TESTIMONY OF **SUBHASH BHANOT** CONTINUED  
10 TO BE PLAYED FOR THE JURY.)

11 MS. WEILER: That concludes Boston Scientific's  
12 counter designation.

13 THE COURT: All right. Call your next witness,  
14 please.

15 MR. LOVE: The next witness is the last implanter.  
16 His name is Dr. Michael Lassere and plaintiffs' offer is five  
17 minutes and 19 seconds.

18 THE COURT: All right. Thank you.

19 (THE VIDEOTAPED TESTIMONY OF **MICHAEL LASSERE** WAS  
20 PLAYED FOR THE JURY.)

21 MR. MONSOUR: That concludes plaintiffs' offer, Your  
22 Honor.

23 MS. WEILER: Boston Scientific offers a counter  
24 designation for Dr. Lassere of nine minutes and 32 -- nine  
25 minutes and 32 seconds. The balance will be played in our

—Campbell - Direct - Wagstaff—

1 case-in-chief, Your Honor.

2 THE COURT: All right. Thank you.

3 (THE VIDEOTAPED TESTIMONY OF **MICHAEL LASSERE**  
4 CONTINUED TO BE PLAYED FOR THE JURY.)

5 MS. WEILER: That concludes Boston Scientific's  
6 counter designation.

7 THE COURT: Thank you. Call your next witness.

8 MS. WAGSTAFF: Your Honor, plaintiffs call plaintiff  
9 Carol Campbell.

10 THE COURT: Ms. Campbell, would you come up and take  
11 an oath or affirmation, please.

12 (**CAROL CAMPBELL**, HAVING BEEN DULY SWORN, TESTIFIED AS  
13 FOLLOWS:)

14 (DIRECT EXAMINATION OF CAROL CAMPBELL BY MS. WAGSTAFF:)

15 Q. Good afternoon, Ms. Campbell.

16 A. Hi.

17 Q. How are you doing today?

18 A. Okay.

19 Q. Are you nervous?

20 A. Yes.

21 Q. I'd like you to introduce yourself to the jury. Why  
22 don't you tell them your name and where you're from.

23 A. I'm Ms. Campbell. I'm from Cross Lanes, West Virginia.  
24 I have two kids. One's 40. One's 38. And I have five  
25 grandchildren.

—Campbell - Direct - Wagstaff—

1 Q. Okay. And you said you're from Cross Lanes; right?

2 A. Yes.

3 Q. Just down the road. And you've lived in the Charleston  
4 area your whole life?

5 A. Yes.

6 Q. You were born and raised in this, in this area?

7 A. Yes.

8 Q. Okay. And let's talk about your education. What level  
9 of schooling did you complete?

10 A. Eighth.

11 Q. Eighth grade?

12 A. Uh-huh.

13 Q. And why did you not complete anymore school?

14 A. I was a slow learner. I was in dis -- I was in a slow  
15 learner class and I was not learning anything.

16 Q. Were you in a special education class?

17 A. Yes.

18 Q. And, so, did you voluntarily drop out of school in the  
19 eighth grade?

20 A. Yes.

21 Q. Did you ever try to go back and get your GED?

22 A. Yes.

23 Q. And did you complete that?

24 A. No.

25 Q. Why not?

—Campbell - Direct - Wagstaff—

1 A. Because it seemed like I wasn't doing any good. It  
2 was -- I wasn't learning anything. Nobody was trying to help  
3 me or I was just there out of place.

4 Q. Okay. And do you work?

5 A. No.

6 Q. Why not?

7 A. I get disability.

8 Q. Okay. And, so, the State of Virginia has declared -- or  
9 the State of West Virginia has declared that you're disabled?

10 A. Yes.

11 Q. And why is that?

12 A. Because I'm a slow learner.

13 Q. Okay. And you have a significant other; right? A  
14 partner?

15 A. Yes.

16 Q. A boyfriend. And he's actually here today; right?

17 A. Yes.

18 Q. John is here to support you. How long have you been with  
19 John?

20 A. Seventeen years.

21 Q. Okay. And you live with John; right?

22 A. Yes.

23 Q. Okay. And you actually -- do you live with anyone else  
24 in that house?

25 A. His mom.

—Campbell - Direct - Wagstaff—

1 Q. Okay. And a couple cats and a dog; right?

2 A. Three -- four cats and a dog.

3 Q. Okay. So, you live with your boyfriend of 17 years and  
4 his mother?

5 A. Yes.

6 Q. Okay. Can you read?

7 A. A little bit, not much.

8 Q. Okay. Can you understand medical documents?

9 A. No.

10 Q. No. Do you have trouble reading legal documents?

11 A. Yes.

12 Q. Okay. Are you easily confused?

13 A. Yes.

14 Q. Okay. And have you ever been told that you have a  
15 learning disability?

16 A. Yes.

17 Q. Okay. So, you've been here the entire trial; right?

18 A. Yes.

19 Q. Okay. And you've heard a lot of talk about stress  
20 urinary incontinence; right?

21 A. Yes.

22 Q. Okay. And you at some point in your life experienced  
23 stress urinary incontinence; right?

24 A. Yes.

25 Q. Do you remember when you started to experience stress

—Campbell - Direct - Wagstaff—

1 urinary incontinence?

2 A. No, I don't.

3 Q. Does sometime before 2011 sound right?

4 A. Yes.

5 Q. Okay. And what would cause you to leak -- what, what  
6 would you be doing to make you have incontinence?

7 A. I would start sneezing or coughing and it will start  
8 running down my legs.

9 Q. Okay. Did you ultimately seek the advice of a doctor?

10 A. Yes. I've seen Dr. Sheth and he recommended me to  
11 different doctors.

12 Q. Okay. And who is Dr. Sheth?

13 A. He's my family doctor.

14 Q. Okay. And did he recommend you to see Dr. Bhanot?

15 A. I believe so.

16 Q. Okay. And Dr. Bhanot is one of the doctors we just saw  
17 on the video; right?

18 A. Yes.

19 Q. And do you remember when you went to see Dr. Bhanot?

20 A. No, I don't.

21 Q. Sometime around November of 2010, does that sound right?

22 A. Yes.

23 Q. Okay. And, and why did you go see Dr. Bhanot?

24 A. I was told that he could help the urine incontinence and  
25 it would help me not being able to wet on myself and when I

—Campbell - Direct - Wagstaff—

1 sneezed or coughed that I wouldn't have the problem anymore.

2 Q. Okay. So, you actually went to go see Dr. Bhanot?

3 A. Yes.

4 Q. And when you left his office, what was your understanding  
5 of his recommendation to you?

6 A. That my bladder had dropped and the operation would help  
7 fix my problem.

8 Q. Okay. And by "the operation," what operation are you  
9 talking about?

10 A. Where he would go in and put the sling in my vagina.

11 Q. The Obtryx sling that we've all heard so much about; is  
12 that right?

13 A. Yes.

14 Q. Okay. And you actually did go through with that surgery;  
15 right?

16 A. Yes.

17 Q. Do you remember when that surgery was?

18 A. No.

19 Q. Does January of 2011 sound familiar?

20 A. Yes.

21 Q. Okay. So, about three months after your initial meeting  
22 with Dr. Bhanot, you underwent surgery and had the Obtryx  
23 implanted; right?

24 A. Yes.

25 Q. Okay. And, again, what was your understanding of what



—Campbell - Direct - Wagstaff—

1 the Obtryx was supposed to do for you?

2 A. To help my bladder and fix my problem where I was wetting  
3 all over myself and sneezing and coughing.

4 Q. Okay. And how did the surgery go?

5 A. We waited eight to ten weeks before we did anything. And  
6 then all of a sudden --

7 Q. Hang on. Let me just -- let's talk about the actual  
8 surgery itself. How did the surgery go?

9 A. It went great.

10 Q. Okay. Any complications during the surgery that you were  
11 aware of?

12 A. No.

13 Q. Okay. And after the surgery was over, were you given any  
14 restrictions on your activities?

15 A. No.

16 Q. You were not given any restrictions by Dr. Bhanot on your  
17 activities; --

18 A. No.

19 Q. -- is that right?

20 A. That's right.

21 Q. Okay. Did you place any restrictions on yourself  
22 regardless of not receiving any from the doctor?

23 A. Yes.

24 Q. Okay. Why don't you tell the jury what restriction you  
25 placed on yourself.

—Campbell - Direct - Wagstaff—

1 A. I made sure that I did not have any intercourse for eight  
2 to ten weeks.

3 Q. And why is that?

4 A. Because when I had my tubes tied and when I had my other  
5 surgery, I was told not to have intercourse. So, I thought I  
6 better take that precaution.

7 Q. So, it seemed common sense for you not to engage in  
8 intercourse after you have had pelvic surgery. Is that  
9 correct?

10 A. Yes.

11 Q. Okay. At some point did you try again to engage in  
12 intimacy and intercourse with your boyfriend?

13 A. Yes.

14 Q. Okay. And how soon after the surgery was that?

15 A. Ten weeks.

16 Q. Okay. And why don't you tell us how that went.

17 A. As soon as we had -- as soon as we had sex, he started  
18 feeling a piece of something that was hitting him right on the  
19 top of his penis. And I started feeling something. It both  
20 hurt us. So, we went back to Dr. Bhanot.

21 Q. Okay. Hang on. Let's take this one step at a time. So,  
22 after you, after you and John were feeling what sounds like  
23 the mesh when you were having sexual relations, did you call  
24 Dr. Bhanot?

25 A. Yes.

—Campbell - Direct - Wagstaff—

1 Q. How soon after that event did you call Dr. Bhanot?

2 A. I don't -- I'd say maybe a day or two. I'm guessing.

3 Q. Okay. Less than a week?

4 A. Yes.

5 Q. But more than a day?

6 A. Yes.

7 Q. Okay. And then how soon after you called him did you get  
8 in for an appointment?

9 A. I don't remember.

10 Q. A couple of days?

11 A. Yes.

12 Q. Okay. And when you went to see Dr. -- did you go and see  
13 Dr. Bhanot?

14 A. Yes.

15 Q. And did you tell Dr. Bhanot what had happened?

16 A. Yes.

17 Q. And did Dr. Bhanot -- when you were leaving Dr. Bhanot's  
18 office, what was your understanding of what he was  
19 recommending to you for treatment?

20 A. Well, he was going to go back in and have another surgery  
21 on me.

22 Q. Okay. And did you, in fact, schedule another surgery --

23 A. Yes.

24 Q. -- with Dr. Bhanot?

25 A. Yes.

—Campbell - Direct - Wagstaff—

1 Q. And how soon after that meeting with him did you schedule  
2 another surgery?

3 A. I don't remember.

4 Q. A couple of days or a week or --

5 A. Yes.

6 Q. -- two weeks or something around there?

7 A. Uh-huh.

8 Q. Do you remember when that second surgery was?

9 A. Probably be in the 11th.

10 Q. April -- what did you say? The 11th?

11 A. The 11th.

12 Q. Does April of 2011 sound right?

13 A. Yes.

14 Q. April 7th of 2011?

15 A. Yes.

16 Q. Which would be just over three months after having  
17 your, --

18 A. The first one.

19 Q. -- your first, your implant. Is that right?

20 A. That's right.

21 Q. And was it your understanding that the mesh had eroded  
22 inside of you?

23 A. No.

24 Q. No? Okay. What was it your understanding that had  
25 happened?

—Campbell - Direct - Wagstaff—

1 A. I just thought something was wrong.

2 Q. And was it your understanding that the mesh was actually  
3 coming outside of your vagina?

4 A. No.

5 Q. Okay. And tell me what happened during that first  
6 revision surgery.

7 A. Everything was okay.

8 Q. So, you had the revision surgery with Dr. -- or the  
9 second surgery with Dr. Bhanot; right?

10 A. Uh-huh.

11 Q. And does he give you any -- and during that surgery, he  
12 fixed the mesh that was coming outside of you; is that  
13 correct?

14 A. That's right.

15 Q. Okay. And were you given any restrictions after that  
16 first revision surgery?

17 A. He did this time.

18 Q. Okay. And what, what did Dr. Bhanot -- what was your  
19 understanding of the restrictions that you had after that?

20 A. He said, "Make sure you don't have surgery for eight to  
21 ten weeks."

22 Q. Make sure you don't have --

23 A. Intercourse.

24 Q. I don't think you mean to say surgery.

25 A. Intercourse, sorry.

—Campbell - Direct - Wagstaff—

1 Q. That's okay. And did you comply with that restriction?

2 A. Yes, I did.

3 Q. Okay. And at some point after that, that first revision  
4 surgery where Dr. Bhanot had to go back in and take some of  
5 the mesh out, did you engage in intercourse with John again --

6 A. No.

7 Q. -- at some point after that?

8 A. Oh, yes, yes.

9 Q. Okay. And how did that go?

10 A. It hurt.

11 Q. Okay. Did you go back to Dr. Bhanot?

12 A. Yes.

13 Q. Okay. And what was your understanding of what Dr. Bhanot  
14 was, was instructing you to do?

15 A. He told me there was nothing wrong and ran out of the,  
16 out of the, the room. I wanted to talk to him and he just  
17 flew out of the room and said that there wasn't nothing wrong  
18 with me.

19 Q. Did you feel like Dr. Bhanot was listening to you?

20 A. No.

21 Q. Did you go seek a second opinion with another doctor?

22 A. Yes.

23 Q. And what doctor did you go to a second opinion for?

24 A. Dr. Lohri.

25 Q. Before you went to Dr. Lohri, did you go see Dr. Kasturi?

—Campbell - Direct - Wagstaff—

1 A. Yes.

2 Q. Okay. Who is Dr. Kasturi?

3 A. He -- she was down there at Teays Valley Clinic in Teays  
4 Valley.

5 Q. Okay. And how soon after you left Dr. Bhanot's office  
6 after you had had the revision surgery where mesh was removed  
7 did you go see Dr. Kasturi roughly?

8 A. Maybe a week, two weeks.

9 Q. Okay. Does October of 2011 sound familiar?

10 A. Yes.

11 Q. So, about six months later?

12 A. Yes.

13 Q. Do you get confused by dates?

14 A. Yes, I do. Sorry.

15 Q. Especially when they're a few years ago; right?

16 A. Yes.

17 Q. Okay. So, you went to go see Dr. Kasturi in October of  
18 2011?

19 A. Yes.

20 Q. And what happened when you went to go see Dr. Kasturi?

21 A. Well, me and John was there. We both went into the room  
22 where they examine you. And she put me on the table where you  
23 spread your legs out. And she was checking me.

24 And she said, "You've got some mesh hanging." And I  
25 said, "Oh, my." So, she went and she got -- I'm not exactly

—Campbell - Direct - Wagstaff—

1 sure what it was, but she didn't numb me or nothing. And it  
2 was coming out of my vagina and she pulled some of the mesh  
3 out and it hurt.

4 Q. This was after Dr. Bhanot had told you that everything  
5 was okay; right?

6 A. Yes.

7 Q. And did you actually keep a piece of that mesh?

8 A. Yes.

9 Q. Did she give you a piece of that mesh in a little jar for  
10 you to take home?

11 A. Yes.

12 Q. Okay. And then did you go see -- this was in October of  
13 2011; right?

14 A. Yes.

15 Q. Did you go see Dr. Kasturi again?

16 A. Yes.

17 Q. Okay. How soon after that did you go see Dr. Kasturi?

18 A. I'm not sure.

19 Q. Does November of 2011 sound right?

20 A. Uh-huh. She pulled out some more.

21 Q. Okay. So, you go see her again?

22 A. Yes.

23 Q. And she removes additional mesh?

24 A. Yes.

25 Q. So, this is the third time you've gone back to have mesh



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1 removed at this point; is that right?

2 A. Yes.

3 Q. Okay. Is it your understanding that you still have mesh  
4 inside of you?

5 A. Yes.

6 Q. Okay. And I want to talk a little bit about your  
7 complications now.

8 A. Okay.

9 Q. Okay? Actually, before we get to that, I want to talk  
10 about one more surgery. Has your stress urinary incontinence  
11 returned?

12 A. Yes.

13 Q. So, please describe for the ladies and gentlemen of the  
14 jury when you, when you experience incontinence now what  
15 you're doing.

16 A. I'm -- when I sneeze, cough, bend over, pee starts coming  
17 out. If I have sex, I have pee coming out.

18 Q. Okay. You had mentioned Dr. Lohri a few moments ago.

19 A. Yes.

20 Q. You actually went and saw Dr. Lohri for treatment?

21 A. Yes.

22 Q. And what did Dr. Lohri do for you?

23 A. He put me under a --

24 (Noise)

25 Q. I think that was a mistake. What did Dr. Lohri do for

—Campbell - Direct - Wagstaff—

1 you?

2 A. Well, he checked me out and talked to me. He was a  
3 really very nice guy. And he asked me questions and he ran  
4 some tests on me. And we went to Charleston Memorial and he  
5 put me under and put some stuff up there and it -- go ahead.

6 Q. Go ahead.

7 A. And it helped for a little while, but the problem came  
8 back.

9 Q. Did Dr. Lohri give you an injection, a bulking injection  
10 to attempt to help you with your stress urinary incontinence?

11 A. Yes.

12 Q. And were you under -- strike that. Did it help with your  
13 stress urinary incontinence?

14 A. For a little while.

15 Q. Okay. Now, before -- now, let's go back to your January  
16 of 2011 implantation of the Obtryx. Okay?

17 A. Uh-huh.

18 Q. Let's step back in time a little bit. Before that  
19 surgery, you met with Dr. Bhanot. We talked about that  
20 earlier. Do you remember that?

21 A. Uh-huh.

22 Q. Did Dr. Bhanot discuss any of the risks of that surgery  
23 with you?

24 A. No.

25 Q. Did he -- he told you a few things that could happen?

Campbell - Direct - Wagstaff

1 A. No.

2 Q. But you signed a consent form?

3 A. Yes.

4 Q. Okay. Did you read the consent form?

5 A. No.

6 Q. Why not?

7 A. I put my faith in him, plus I can't read that good.

8 Q. Okay. Is it fair to say that you do not have the ability  
9 to read and understand a consent form? Is that what I heard  
10 you say?

11 A. That's right.

12 Q. So, you relied on the medical judgment of Dr. Bhanot?

13 A. Yes.

14 Q. Is that correct?

15 A. That's right.

16 Q. And did -- was it your understanding that you needed the  
17 Obtryx?

18 A. Yes.

19 Q. Was it your understanding that you needed to sign the  
20 consent form to receive the Obtryx?

21 A. Yes.

22 Q. Prior to your surgery, did you know that the Obtryx had  
23 never been tested in human beings?

24 A. No.

25 Q. Prior to your surgery, did you know that the resin

—Campbell - Direct - Wagstaff—

1 manufacturer had told Boston Scientific not to permanently  
2 implant that resin in humans?

3 A. No.

4 Q. If you had known either one of those things, would you  
5 have agreed to do this surgery?

6 A. No.

7 Q. Prior to your surgery, did you know that you would --  
8 that the Obtryx would shrink inside of your body?

9 A. No.

10 Q. Prior to your surgery, did you know that it would be  
11 impossible to remove all of the Obtryx from your body?

12 A. No.

13 Q. Prior to your surgery, did you know that you would have  
14 to have multiple surgeries to remove portions of the Obtryx?

15 A. No.

16 Q. If you had known any of those, would you have agreed to  
17 have the Obtryx?

18 A. No.

19 Q. Now I'd like to talk a little bit about your pain now.  
20 Could you tell the ladies and gentlemen of the jury a little  
21 bit of what you're experiencing today?

22 A. Well, my insides hurt all the time. Below my belly it  
23 hurts. And I'd say it's about a scale of about a 12 or more.

24 Q. Are you able to engage in intimate -- in intimacy with  
25 John?

Campbell - Direct - Wagstaff

1 A. No.

2 Q. What happens when you try to have sex with your  
3 boyfriend?

4 A. I hurt.

5 Q. Are you able to do it?

6 A. No.

7 Q. The pain is so bad -- the entrance pain is so bad that  
8 you're unable to have sex; is that right?

9 A. Yes.

10 Q. How long has it been like that?

11 A. Ever since I've had surgery.

12 Q. Okay. And you were sitting here in the opening  
13 statements; correct?

14 A. Uh-huh.

15 Q. And you heard Mr. Adams talk about how you had prior  
16 pelvic pain and dyspareunia; right?

17 A. Yes.

18 Q. Until this trial, did you know what dyspareunia meant?

19 A. No.

20 Q. Do you know what it means right now?

21 A. No.

22 Q. Dyspareunia means painful sex. Do you understand that?

23 A. Yes.

24 Q. Okay. So, Boston Scientific had put up some slides  
25 showing that you had painful sex prior to your Obtryx implant.

—Campbell - Direct - Wagstaff—

1 Do you remember that?

2 A. Yes.

3 Q. And, in fact, three slides that were shown suggested that  
4 you had painful sex and pelvic pain in 2004, 2008, and 2009.

5 Do you remember those?

6 A. Yes.

7 Q. I'd like to talk about that for a little while if you  
8 could. Do you remember in 2004 having painful sex?

9 A. Yes.

10 Q. Do you remember why you were having painful sex in 2004?

11 A. I had cysts in my insides on my pelvis.

12 Q. You had cysts on your uterus?

13 A. Yes. I'm sorry.

14 Q. On your insides?

15 A. Yes, on my insides.

16 Q. Okay. And that was painful when you were having sex when  
17 there were cysts there; right?

18 A. Yes.

19 Q. Did you have those cysts removed?

20 A. Yes.

21 Q. And did that pain go away?

22 A. Yes.

23 Q. Did the cysts come back?

24 A. Yes.

25 Q. Did the pain come back?

—Campbell - Direct - Wagstaff—

1 A. Yes.

2 Q. So, did you have a surgery to -- tell me when you had  
3 your first surgery to get those cysts removed.

4 A. I don't remember.

5 Q. Does November of 2004 sound --

6 A. That sounds about right.

7 Q. -- somewhere accurate?

8 A. Yes, uh-huh.

9 Q. Okay. And you said that when those cysts were removed --

10 A. The pain was gone.

11 Q. -- the pain went away and you were able to have intimacy  
12 with John --

13 A. Yes.

14 Q. -- without pain?

15 A. Yes.

16 Q. And that pain came back you just said; right?

17 A. Yes.

18 Q. And did you have -- did the cysts come back?

19 A. Yes.

20 Q. And did you have a second surgery to get the cysts  
21 removed?

22 A. Yes.

23 Q. And when was that surgery?

24 A. It wasn't very long after that I don't believe.

25 Q. Would it surprise you that it was in August of 2007?

—Campbell - Direct - Wagstaff—

1 Does that sound right?

2 A. That's about right.

3 Q. So, you had -- and who were -- who was performing these  
4 surgeries on you?

5 A. Dr. Heywood.

6 Q. Okay. And Dr. Heywood once again removed your painful  
7 cysts from your uterus; right?

8 A. Yes.

9 Q. And after that second surgery to remove the painful cysts  
10 in 2007, did the pain go away?

11 A. Yes.

12 Q. Okay. Did the pain come back?

13 A. Yes.

14 Q. And did the cysts come back?

15 A. Yes.

16 Q. And, so, did you have a third surgery to remove the  
17 painful cysts on your uterus?

18 A. Yes.

19 Q. And did the pain go away with that third surgery?

20 A. Yes.

21 Q. And that was in -- do you remember when that third  
22 surgery was?

23 A. No.

24 Q. Does April of 2008 sound right?

25 A. Yes.



—Campbell - Direct - Wagstaff—

1 Q. Okay. And did the pain come back?

2 A. Yes.

3 Q. And did Dr. Heywood tell you, "Enough is enough. Now we  
4 just need to remove your uterus."

5 A. Yes.

6 Q. And did you have a hysterectomy?

7 A. Yes.

8 Q. And when was your hysterectomy?

9 A. All I know is it was over here at Women and Children's  
10 Hospital.

11 Q. Would it surprise you if it was in January of 2009?

12 A. That's about right.

13 Q. Okay. And you heard Mr. Adams asking questions to Dr.  
14 Walker; right?

15 A. Yes.

16 Q. And you heard him say that sometimes the only way to get  
17 rid of pelvic pain is to have a hysterectomy; right?

18 A. That's right.

19 Q. And, in fact, that's what you did; right?

20 A. Yes.

21 Q. And after your hysterectomy was removed -- or your uterus  
22 was removed, the cysts never came back, did they?

23 A. No.

24 Q. And after your hysterectomy were you able to have pain --  
25 were you able to have sex with your boyfriend without pain?

—Campbell - Direct - Wagstaff—

1 A. Yes.

2 Q. So, from January of 2009 when your uterus was removed  
3 until January of 2011 when the Obtryx was put in, were you  
4 able to have intimacy with John without pain?

5 A. Yes.

6 Q. You've had urinary tract infections in your past; right?

7 A. Yes.

8 Q. And that causes pain; right?

9 A. Yes.

10 Q. Do you go and get medications to have them cured?

11 A. Yes.

12 Q. And when the infection goes away, does the pain go away?

13 A. Yes.

14 Q. Now, I'd like to talk to you about -- a little bit about  
15 something that might make you upset and I hope it doesn't.

16 But were you recently diagnosed with colon cancer?

17 A. Yes.

18 Q. Okay. When was that?

19 A. It was back in September 13th.

20 Q. September of 2013?

21 A. Yes.

22 Q. So, a little over a year ago?

23 A. Yes.

24 Q. Okay. And that was causing you pain, was it not?

25 A. Yes.

—Campbell - Direct - Wagstaff—

1 Q. Okay. And did you have to have treatment for your colon  
2 cancer?

3 A. Yes.

4 Q. What kind of treatment did you have?

5 A. I had chemo.

6 Q. Okay. You had a couple of sessions of chemotherapy?

7 A. Twelve.

8 Q. Twelve sessions. Did you have to have a portion of your  
9 colon removed?

10 A. Yes.

11 Q. Are you cancer free today?

12 A. Yes.

13 Q. When were you declared cancer free?

14 A. August the 14th of this year.

15 Q. Congratulations for that.

16 A. Thank you.

17 Q. And has the pain associated with your colon cancer gone  
18 away as the cancer went away?

19 A. Yes.

20 Q. Okay. And one thing that I want to ask you, is the  
21 pain -- that I forgot to ask you a few moments ago. Is the  
22 pain that was associated to your 2004-2009 pre-hysterectomy  
23 dyspareunia different than the pain that you're experiencing  
24 today?

25 A. Yes.

—Campbell - Direct - Wagstaff—

1 Q. Can you explain to the jury how it's different?

2 A. Well, for one thing, it's not in my -- it's not in my  
3 insides -- it's in my insides and I cannot have sex. And with  
4 the other surgery, I could have sex.

5 Q. So, are you saying that in the 2009 -- or 2004-2009  
6 pre-hysterectomy pain, you could have sex but it was just  
7 painful?

8 A. Yes.

9 Q. And now you can't even engage in sex; is that correct?

10 A. That's right.

11 Q. Okay. And, Ms. Campbell, you've had hernia surgeries;  
12 correct?

13 A. Yes.

14 Q. In fact, how many have you had?

15 A. Two.

16 Q. And was mesh implanted when you had your hernia  
17 surgeries?

18 A. A different kind.

19 Q. Okay. And when were your two hernia surgeries?

20 A. It's been three weeks of last Friday.

21 Q. Okay. And then -- so, you had one three weeks ago last  
22 Friday?

23 A. Yes.

24 Q. And then you had one several years ago; is that correct?

25 A. Something like that. But it's a different surgery.

—Campbell - Direct - Wagstaff—

1 Q. Right. And it wasn't the Obtryx mesh implanted --

2 A. No.

3 Q. -- in your hernia. Is that correct?

4 A. No.

5 Q. And the hernia mesh wasn't implanted through your vagina;  
6 is that correct?

7 A. No.

8 Q. And a different company makes the hernia mesh than makes  
9 your Obtryx; is that right?

10 A. That's right.

11 Q. Does it make you nervous that mesh remains in your body?

12 A. Yes.

13 Q. Why?

14 A. It makes me nervous and afraid that one day it might kill  
15 me or do something and I'm not going to be here to see my  
16 grandchildren grow up or see John or his mother because she's  
17 sick too now. And it just makes me nervous.

18 Q. All right, Ms. Campbell. You had your deposition taken  
19 in this case; right?

20 A. Yes.

21 Q. Do you remember how long ago your deposition was taken?

22 A. Maybe a year or two.

23 Q. Okay. So, a couple months ago?

24 A. Yeah.

25 Q. Do you remember how long the deposition lasted?

—Campbell - Direct - Wagstaff—

1 A. About eight hours.

2 Q. Eight hours?

3 A. Yes.

4 Q. Do you remember who took your deposition?

5 A. No, I don't.

6 Q. Do you know if it was an attorney hired by Boston  
7 Scientific?

8 MS. WEILER: Objection, Your Honor, relevance.

9 THE COURT: There's an objection as to relevancy  
10 regarding the length and who took her deposition. Any  
11 response to the objection?

12 MS. WAGSTAFF: Yes, Your Honor. I think that the  
13 treatment of previous plaintiffs being impeached by their  
14 deposition testimony, I'd like to explain the circumstances  
15 surrounding her deposition.

16 THE COURT: I sustain the objection at this point in  
17 time, counsel.

18 MS. WAGSTAFF: Okay. I pass the witness.

19 THE COURT: Let's take a break.

20 Ladies and gentlemen of the jury, while you're out,  
21 do not discuss this case among yourselves or permit anyone to  
22 discuss it with you or in your presence. And please be in  
23 your jury lounge at 25 minutes after the hour. We'll stand in  
24 recess.

25 (Recess taken at 4:09 p.m.)

—Campbell - Cross - Weiler—

1 (The Jury entered the courtroom at 4:26 p.m.)

2 COURT SERVICES OFFICER: All rise.

3 THE COURT: Ms. Weiler.

4 MS. WEILER: Thank you, Your Honor.

5 (CROSS-EXAMINATION OF CAROL SUE CAMPBELL BY MS. WEILER:)

6 Q. Ms. Campbell, we have not had an opportunity to talk yet,  
7 have we?

8 A. No.

9 Q. My name is Eva Weiler, and I just want to spend a little  
10 more time asking a few more questions. All right?

11 A. Okay.

12 Q. Now, your counsel reminded you, I believe, that you had  
13 your Obtryx surgery in January, 2011. Is that right?

14 A. Yes.

15 Q. Before you had the Obtryx, you had it for a particular  
16 reason, right?

17 A. Yes.

18 Q. And the reasons, as I understand you have described them,  
19 is that you were peeing all over yourself. Is that right?

20 A. When I sneezed and I coughed, yes.

21 Q. And you were going to the bathroom all the time. Is that  
22 right?

23 A. Yes.

24 Q. And you were waking up at night soaking wet, right?

25 A. Yes. And there were sometimes when I went to the

—Campbell - Cross - Weiler—

1 bathroom and I couldn't use the bathroom.

2 Q. And that was all before you had the Obtryx, right?

3 A. Yes. Well, after, too.

4 Q. And before you ever had the Obtryx, there were times when  
5 you were changing your clothes four times a day as a result.

6 Is that right?

7 A. Yes.

8 Q. Is it fair to say you weren't happy living like that,  
9 right?

10 A. No.

11 Q. And fair to say you wanted a change in those  
12 circumstances?

13 A. Yes.

14 Q. By the time you had the Obtryx procedure in the beginning  
15 of 2011, you had been experiencing those kind of symptoms for  
16 several years; is that right?

17 A. Yes.

18 Q. And, in fact, your incontinence symptoms, that leaking,  
19 happened as early, as far back as 2005; is that right?

20 A. Yes.

21 Q. And you initially saw Dr. Sheth for those symptoms,  
22 right?

23 A. Um-hum.

24 Q. And I believe you tried some medication to help those  
25 symptoms, right?



—Campbell - Cross - Weiler—

1 A. Yes.

2 Q. Did that work?

3 A. No.

4 Q. Your urinary symptoms, the leaking, that continued,  
5 right?

6 A. Yes.

7 Q. And is it true that almost anything could cause you to  
8 leak urine at that point?

9 A. Yes.

10 Q. And on some of those occasions, it would happen four or  
11 five times a day, right?

12 A. Yes.

13 Q. Now, at that same time you were also using pads, right?

14 A. Yes.

15 Q. Is it my understanding, you're not particularly keen on  
16 using pads, right?

17 A. No.

18 Q. Pretty inconvenient, right?

19 A. Yes.

20 Q. So, at some point, your doctors referred you to treat  
21 with Dr. Bhanot; is that right?

22 A. Yes.

23 Q. And it's my understanding that was about -- near the end  
24 of 2010. Is that about right?

25 A. Yes.

—Campbell - Cross - Weiler—

1 Q. I would like to turn to one of your medical records from  
2 your treatment with Dr. Bhanot, and I want to refer to Exhibit  
3 31, and, specifically, that's dated November 23rd, 2010. We  
4 will put it up on the board here. All right?

5 A. I can't read it.

6 Q. That's all right. We will work through it, all right?

7 MS. WAGSTAFF: Can I have a copy?

8 MS. WEILER: Sure.

9 (The document was published to the jury.)

10 BY MS. WEILER:

11 Q. Now, when you first went to see Dr. Bhanot, it says, "The  
12 patient's main complaint is leakage of urine on coughing and  
13 sneezing." Do you have any reason to dispute that I read that  
14 correctly?

15 A. No.

16 Q. And when you were there -- let's turn to another part of  
17 that same record, to the second page, if we could --  
18 Dr. Bhanot did a pelvic examination; is that right?

19 A. Yes.

20 Q. And he wrote, "1B to Type 2 cystocele. Stress urinary  
21 incontinence seen." We've talked about the word "stress  
22 urinary incontinence," right?

23 A. Yes.

24 Q. You understand that that was the leaking you were  
25 experiencing, right?

—Campbell - Cross - Weiler—

1 A. Yes.

2 Q. Now, you went and saw Dr. Bhanot again after that, right?

3 A. Yes.

4 Q. And he determined that you would be a good candidate to  
5 have the Obtryx, right?

6 A. Yes.

7 Q. And at that point in your life, is it fair to say your  
8 incontinence problems were so aggravating that they were  
9 really affecting the quality of your life?

10 A. Yes.

11 Q. And the problems were so bothersome, in fact, that you  
12 rated them at least a 10 on a scale of 1 to 10?

13 A. Probably worser than that.

14 Q. You were avoiding social events as a result, weren't you?

15 A. Um-hum.

16 Q. And you were concerned about going to the bathroom when  
17 you really didn't want to, right?

18 A. Yes.

19 Q. Is it fair to say that you considered your incontinence  
20 issue to be a major problem?

21 A. Yes.

22 Q. And it was a problem that you wanted treated?

23 A. Yes.

24 Q. Now, one of the claims I understand that you are making  
25 in this lawsuit has to do with the fact that you believe the

—Campbell - Cross - Weiler—

1 Obtryx caused you to have pain during sex; is that right?

2 A. Yes.

3 Q. Isn't it also true, though, that you experienced pain  
4 with sex prior to ever having the Obtryx implanted?

5 A. That's different.

6 Q. Let's talk a little bit about that. You actually  
7 experienced severe pain prior to having the Obtryx implanted,  
8 right?

9 A. Yes.

10 Q. And that pain had actually gone over -- gone on for  
11 years, right?

12 A. Yes.

13 Q. And in going through your medical records, I actually  
14 found at least 12 separate instances where you were reporting  
15 pain or discomfort with intercourse. Do you dispute that you  
16 saw physicians at least 12 times and complained of pain or  
17 discomfort with sex prior to the Obtryx?

18 A. No.

19 Q. Let's look at just a couple of those records. I  
20 certainly am not going to take you through all 12 of them.  
21 All right? Let's look first at Exhibit 38. And this is dated  
22 November 24th, 2004. It's Bates Numbered Heywood 451.

23 (The document was published to the jury.)

24 BY MS. WEILER:

25 Q. And if you look, you have a screen just to your side

—Campbell - Cross - Weiler—

1 there that you can also look at that's a little easier for  
2 you. Do you see up in this corner, it's a yellow highlight,  
3 it says 9-24-04?

4 A. Yes.

5 Q. And you understand that to be September 24th, 2004?

6 A. Yes.

7 Q. Okay. Now, if we could just go down a little lower under  
8 "chief complaint," that yellow highlighted section, it says,  
9 "Has dyspareunia for two to three years, getting progressively  
10 worse." Do you see where I'm reading now?

11 A. Yes.

12 Q. And when you talked to your counsel, you understand that  
13 dyspareunia means pain with intercourse, right?

14 A. Yes.

15 Q. Now, am I correct that -- well, let's move on.

16 Let's look at another record from 2004. All right?  
17 This time, I would like to show Exhibit 32. This is dated  
18 November 3rd, 2004. Now, on here --

19 (The document was published to the jury.)

20 MR. WEILER: Can you pull that up? Thank you.

21 BY MS. WEILER:

22 Q. This record, under "chief complaint," it says, right up  
23 here, again in that yellow highlight, it also says, "Pain  
24 severe with and after intercourse." Do you see where I'm  
25 reading at?

—Campbell - Cross - Weiler—

1 A. Yes.

2 Q. Now, am I correct that you characterized your pain prior  
3 to this date as an 8 on a scale of 1 to 10?

4 A. I don't remember.

5 MS. WEILER: May I approach, Your Honor?

6 THE COURT: Yes, ma'am.

7 BY MS. WEILER:

8 Q. There's a copy of your deposition under Tab 1. If you  
9 just open that up, we'll walk you through it. Do you remember  
10 having your deposition taken in this action?

11 A. Yes.

12 Q. And do you recall that it was in April of 2014?

13 A. I don't remember.

14 Q. Does that sound approximately right to you?

15 A. Probably.

16 Q. Let's -- if you could turn under Tab 1 to that deposition  
17 testimony there, and, in particular, turn to Page 197, please.

18 A. Like I said, I can't read it.

19 Q. That's okay, we'll work through it.

20 Have you got Page 197?

21 A. Um-um.

22 Q. Can I help you?

23 MS. WEILER: May I help her, Your Honor?

24 THE COURT: Yes, ma'am.

25 BY MS. WEILER:

—Campbell - Cross - Weiler—

1 Q. It's right back here. That's okay. Numbers are just  
2 right here. And I'm going to start reading down here. Okay?

3 A. (Nods head.)

4 Q. I'm going to start reading right where I pointed to just  
5 a moment ago, all right, at Page 197?

6 "Can you characterize how the pain was before this  
7 procedure?

8 "No.

9 "How about on a scale of 1 to 10?

10 "ANSWER:" It goes up to the next page. "Probably  
11 about an 8."

12 Do you have any reason to dispute that I read that  
13 correctly to you, ma'am?

14 A. I don't remember.

15 Q. Now, you actually underwent a surgical procedure after  
16 this date of treatment, in November of 2004. Do you recall  
17 that?

18 A. I don't remember.

19 Q. I believe you talked to your -- talked with your counsel  
20 about it. You had a surgical procedure?

21 A. Yes. Sorry. I'm sorry.

22 Q. That's all right. That's all right.

23 A. Yes.

24 Q. You had a surgical procedure involving some adhesions in  
25 your abdomen, right?

—Campbell - Cross - Weiler—

1 A. Yes.

2 Q. Now, I believe that you discussed them as cysts, right?

3 A. Yes.

4 Q. Now, if your doctors characterized them as adhesions, you  
5 would defer to what they called them. Is that right?

6 A. Yes.

7 Q. Now, those adhesions have required multiple surgeries to  
8 be removed; is that right?

9 A. It was three or four times.

10 Q. And from looking at your records, it looks like you had  
11 one in November of 2004, right?

12 A. Yes.

13 Q. And then another one in August of 2007, correct?

14 A. Yes.

15 Q. And then you had another one in April of 2008, right?

16 A. Yes.

17 Q. And another in January of 2009, correct?

18 A. Yes.

19 Q. And those were -- those were all before the Obtryx,  
20 right?

21 A. Yes.

22 Q. Now, we also mentioned that you had surgery for your  
23 colon cancer, we said; is that right?

24 A. Yes.

25 Q. And let's actually look at the record from that, okay?



—Campbell - Cross - Weiler—

1 So that is Exhibit 42, please. And it's dated 9-20-2013.

2 (The document was published to the jury.)

3 BY MS. WEILER:

4 Q. Do you see the procedure date that's highlighted there?

5 A. Yes.

6 Q. September 20th, 2013?

7 A. Um-hum.

8 Q. And underneath there, it says, "colon cancer." Do you  
9 see that?

10 A. Yes.

11 Q. And just below that it says, "Extensive intra-abdominal  
12 adhesions." Do you see that?

13 A. Yes.

14 Q. Just below that, it says -- there's a procedure section,  
15 and, again, the highlighted part says, "Extensive laparoscopic  
16 adhesiolysis requiring greater than 90 minutes operative  
17 time." Do you have any reason to dispute that I've read that  
18 correctly?

19 A. No.

20 Q. And it's your understanding that when you had your  
21 surgery for your colon cancer, the surgeon also had to remove  
22 some additional adhesions in 2013 as well?

23 A. No.

24 Q. You didn't understand that?

25 A. No.

—Campbell - Cross - Weiler—

1 Q. I would like to continue talking to you a little bit more  
2 about some of your pre-Obtryx pain with intercourse. All  
3 right? So let's go to Exhibit 38. January 11th, 2007, is the  
4 date of that.

5 (The document was published to the jury.)

6 BY MS. WEILER:

7 Q. On here, do you see the date, in the yellow highlighting  
8 up at the top? It says 1-11-2007?

9 A. Yes.

10 Q. And you understand that's January 11th, 2007?

11 A. Yes.

12 Q. And then below, it also says, "Pain with intercourse."

13 Do you see that as well?

14 A. Yes.

15 Q. Let's go to March of 2008. That's Exhibit 38.

16 (The document was published to the jury.)

17 BY MS. WEILER:

18 Q. Do you see the date again up -- highlighted in the upper  
19 corner? 3-10-2008?

20 A. Yes.

21 Q. Do you understand that's March 10th, 2008?

22 A. Yes.

23 Q. And just below, again, in this yellow highlighted  
24 section, it says, "Sex, it's hurting while having sex." Do  
25 you see that?

—Campbell - Cross - Weiler—

1 A. Um-hum.

2 Q. And down below, there is another highlighted section.

3 And it says, "Worsening last two to three months, intercourse  
4 feels like being jabbed with a knife." Do you see that?

5 A. Yes.

6 Q. After this appointment, you understand that you had  
7 another surgery with regard to removal of your adhesions in  
8 April. Do you understand that?

9 A. I believe that was when I had some more cysts in there.

10 Q. And you understand when we talked about it earlier that  
11 your doctors are referring to the adhesion, right?

12 A. I don't remember.

13 Q. Even if you don't understand the difference between cysts  
14 and adhesions, you do defer to your doctors as to what they  
15 actually are, right?

16 A. Like I said, I don't remember.

17 Q. Now, let's look at the visit that you had with  
18 Dr. Heywood. Do you recall treating with Dr. Heywood?

19 A. Yes.

20 Q. Let's look at a visit with him. Exhibit 38. This is  
21 dated December 15th, 2008.

22 (The document was published to the jury.)

23 BY MS. WEILER:

24 Q. And you see the date up there, it says 12-15-2008?

25 A. Yes.

—Campbell - Cross - Weiler—

1 Q. And do you understand that that's December 15th, 2008?

2 A. Yes.

3 Q. And down here, it actually says -- in the upper portion  
4 is actually what I want to look at. It says, "sexual  
5 difficulty," "yes" is circled. Do you see that?

6 A. Yes.

7 Q. And then actually, down below, it also says, "Patient  
8 complains of pelvic pain." Do you see that?

9 A. Yes.

10 Q. Now, when you talked -- when you gave your deposition  
11 earlier this year -- strike that.

12 Isn't it true that the pain that you felt with  
13 intercourse six months before your deposition was -- felt the  
14 same as the pain that you were experiencing back in 2008?

15 A. No.

16 Q. I would like to have you turn to your deposition  
17 testimony, if you could. Again, this time I'm looking at Page  
18 204.

19 Have you found Page 204?

20 A. Yes.

21 Q. Thank you.

22 I'm reading at Line 10, it says, "What do you remember  
23 about the pain that you were having with intercourse around  
24 this time?

25 "Well, I'm just going to come right out and say it.

—Campbell - Cross - Weiler—

1 When he would touch me, it was just, I wanted to scream.

2 "Right. And that was back in 2008, correct?

3 "Right.

4 "QUESTION: How is that different than what you said  
5 when you started the deposition about the last time you  
6 attempted to have intercourse six months ago? In other words,  
7 are the feelings the same?

8 "ANSWER: Yes."

9 Did I read that correctly, ma'am?

10 A. I don't remember.

11 Q. You don't remember if I read that correctly?

12 A. Yes, you read it correctly. I apologize.

13 Q. Thank you.

14 Now, I mentioned one record that -- here that listed  
15 pelvic pain, right?

16 A. Yes.

17 Q. And you had experienced pelvic pain prior to your having  
18 the Obtryx, right?

19 A. Yes.

20 Q. And you actually had pelvic pain dating as far back as  
21 2000, right?

22 A. Probably.

23 Q. And, in fact, am I correct that you had actually  
24 complained to Dr. Heywood about pelvic pain? Right?

25 A. Yes.

—Campbell - Cross - Weiler—

1 Q. Let's pull up Exhibit Number 38. This is dated  
2 11-3-2004.

3 (The document was published to the jury.)

4 BY MS. WEILER:

5 Q. And, again, the date is in the upper right-hand corner.  
6 And that's 11-3-2004. Do you see that?

7 A. Yes.

8 Q. And just below there, it says, "Preoperative diagnosis:  
9 Chronic pelvic pain." Do you see that?

10 A. Yes.

11 Q. And by "chronic," do you understand that you were having  
12 pain in your abdomen area all of the time, right?

13 A. That's when I had the -- the cysts that came back.

14 Q. And it was happening, pain in that area all the time,  
15 right?

16 A. Just when I had the cysts, at that time.

17 Q. But at this time you were having pain in your abdomen all  
18 the time, right? It was chronic, right?

19 A. Yes.

20 Q. And am I correct that you also had chronic pelvic pain in  
21 August of 2007, too, right?

22 A. Yes.

23 Q. And also in 2008, December of 2008, you also had  
24 recurrent pelvic pain; is that right?

25 A. I believe so.

—Campbell - Cross - Weiler—

1 Q. And you had recurrent pelvic pain with Dr. Heywood in  
2 2009, as well, correct?

3 A. I don't remember that.

4 Q. I'm sorry?

5 A. I said, I don't remember. I'm not good with dates.

6 Q. I understand. Let's look at Exhibit 38, dated 1-23-2009.  
7 And that's Bates 184.

8 (The document was published to the jury.)

9 BY MS. WEILER:

10 Q. And here, the date this time is in the upper left-hand  
11 corner. Do you see the 1-23-09?

12 A. Oh, yes.

13 Q. Do you see that? And underneath there it says,  
14 "Recurrence now pelvic pain, severe dyspareunia. Desires  
15 definitive therapy." Do you see that?

16 A. Yes.

17 Q. Do you recall wanting definitive therapy, meaning you  
18 wanted it taken care of?

19 A. Yes.

20 Q. Now, other than Obtryx, we have talked a little bit about  
21 some of the other surgeries that you had, right?

22 A. Um-hum. Yes.

23 Q. We talked about your adhesion surgeries, there were about  
24 five of them, right?

25 A. I don't remember that one.

—Campbell - Cross - Weiler—

1 Q. We talked about the ones -- the four before the Obtryx  
2 and then the one that happened with the --

3 A. Yes.

4 Q. -- colon cancer. Do you recall that?

5 A. Yes, yes.

6 Q. And am I also correct that you had your gallbladder  
7 removed before you had the Obtryx? Is that right?

8 A. Yes.

9 Q. And that's because you were having pain in your stomach  
10 area, right?

11 A. Yes.

12 Q. And you actually, I think, passed out from that pain  
13 right before you had that taken out; is that right?

14 A. Yes.

15 Q. And, in addition, you've also had two procedures for  
16 hernias, right?

17 A. Yes.

18 Q. And one of them was back in 2009, correct?

19 A. Yes.

20 Q. And one of them was about three or four weeks ago; is  
21 that right?

22 A. Yes.

23 Q. And in terms of the treatment for your hernia, the hernia  
24 was in your abdomen, correct?

25 A. Something like that.



—Campbell - Cross - Weiler—

1 Q. The first one. Let's talk about the one in 2009 first.

2 A. I don't remember that one.

3 Q. Sure. You had -- you recall having surgery for that  
4 hernia?

5 A. Yes.

6 Q. And you remember that they put in polypropylene mesh into  
7 your abdomen?

8 A. There was a different mesh.

9 Q. And how do you know that it was different?

10 A. Because the doctor told me it was a different surgery and  
11 it was a different mesh.

12 Q. You understand that they put mesh into your abdomen,  
13 correct?

14 A. He said that it was a whole totally different situation.

15 Q. And then the one you had three to four weeks ago, you  
16 also had mesh placed?

17 A. Yes.

18 Q. And earlier, your counsel asked you, you said you knew  
19 that the mesh was made by another manufacturer. Do you  
20 remember saying that?

21 A. No.

22 Q. It wasn't made by Boston Scientific; do you remember  
23 that?

24 A. No. I knew it was -- I don't remember.

25 Q. Do you know if the hernia mesh was from a different

—Campbell - Cross - Weiler—

1 manufacturer than Boston Scientific?

2 A. No.

3 Q. You haven't had any problems related to the first hernia  
4 procedure, have you?

5 A. No.

6 Q. And you haven't, so far, had any problems related to the  
7 second --

8 A. No.

9 Q. -- hernia, right?

10 A. No.

11 Q. Now, before you ever had the Obtryx, you tried a couple  
12 things to try and deal with your leaking and your  
13 incontinence, right?

14 A. Yes.

15 Q. And that included the pads that you weren't keen on,  
16 right?

17 A. Right.

18 Q. And it included the medications that didn't work really  
19 well, right?

20 A. Right.

21 Q. And before your Obtryx surgery, you understood that all  
22 surgeries have risks, right?

23 A. Yes.

24 Q. And you knew that Dr. Bhanot was going to use a mesh  
25 device to treat your urinary problems, right?

—Campbell - Cross - Weiler—

1 A. No.

2 Q. Okay.

3 A. He didn't explain anything to me.

4 Q. But you knew that he was going to put mesh in, right?

5 A. No.

6 Q. Can you turn to your deposition again for me? I would  
7 like you to turn to Page 46, if you could. Tell me when  
8 you're there, all right?

9 A. Okay.

10 Q. Got it?

11 A. Yes.

12 Q. I'm looking at Line 14, and it says there:

13 "Did he tell you he was going to use a mesh device to  
14 treat your bladder problems?

15 "ANSWER: Yes."

16 Did I read that correctly?

17 A. Yes. But I disagree. I mean, you read it right, but he  
18 never told me anything.

19 Q. You understood that Dr. Bhanot was putting something in  
20 your body that was going to stay there, right?

21 A. He just told me that he was going to put a sling in there  
22 to hold my bladder up and help my urine incontinence.

23 Q. Did you --

24 A. That's all he told me.

25 Q. Sorry.

—Campbell - Cross - Weiler—

1           You knew that he was going to put something into your  
2 body, right?

3   A.   Yes.

4   Q.   And you knew it was going to stay there, right?

5   A.   He didn't say either way.

6   Q.   Okay. Let's look at your deposition testimony once  
7 again.

8   A.   I don't remember everything that I said.

9   Q.   Okay. Can you turn to Page 223 for me? Tell me when  
10 you're there.

11   A.   Okay.

12   Q.   Got it?

13   A.   Um-hum.

14   Q.   And I'm looking at Line 9, and it says;.

15           "You understand that he was putting something in your  
16 body?

17           "ANSWER: Yes."

18   A.   I disagree because I don't remember.

19   Q.   Did I read that correctly?

20   A.   Yes, but I don't remember.

21   Q.   The next line says:

22           "So you did know before the procedure that he was  
23 actually going to place something in your body?

24           "ANSWER: But he didn't explain it, what it was or  
25 nothing."

—Campbell - Cross - Weiler—

1 Down to 22, it says:

2 "Do you understand that what he was putting in your  
3 body was going to stay there?

4 "ANSWER: Yes."

5 Did I read that correctly?

6 A. Yes.

7 Q. You also knew that he wasn't planning to take it out,  
8 right?

9 A. Right.

10 Q. And am I correct that you were willing to accept some  
11 risk if you thought the Obtryx would help with your leaking,  
12 right?

13 A. I put my hands in his -- I put my faith in his hands  
14 because I thought it was gonna work.

15 Q. But you were willing to accept some risk to get the  
16 benefit of the stopping --

17 A. Yes.

18 Q. -- the leaking? And isn't it true that you would accept  
19 the risk of inflammation if you thought the Obtryx procedure  
20 would help with the leaking problem?

21 A. Do what? Can you repeat that?

22 Q. Sure.

23 Isn't it true that you would accept the risk of  
24 inflammation if you thought the Obtryx would help with your  
25 leakage problems?

—Campbell - Cross - Weiler—

1 A. What is that?

2 Q. Would you have accepted the risk of infection --

3 A. No.

4 Q. -- if the Obtryx --

5 A. No.

6 Q. Okay. Can you turn to Page 242 of your deposition,  
7 please. And tell me when you're there.

8 A. Okay.

9 Q. All right? I'm looking at Line 13, and it says:

10 "QUESTION: Would you have accepted an infection if it  
11 would have eventually led to the problems going away?

12 "ANSWER: Yes."

13 Did I read that correctly?

14 A. Yes. But I disagree.

15 Q. You disagree that I read it correctly?

16 A. No. You read it correctly, but I disagree. I wouldn't  
17 have done it if I knew that there was gonna be infections and  
18 it wasn't gonna work, no, I wouldn't have done it.

19 Q. So let me ask you another question.

20 A. Okay.

21 Q. Would you accept a period of painful intercourse if it  
22 meant that the procedure would stop the leaking?

23 A. No.

24 Q. Okay. Again, on that same page, 242, it says, at 17:

25 "Would you have accepted a period of time when you had

—Campbell - Cross - Weiler—

1 painful intercourse if it meant that the leaking would stop?

2 "ANSWER: Yes."

3 Did I read that correctly?

4 A. Yes, you did.

5 Q. And am I correct that you also would have accepted the  
6 risk of pelvic pain as well?

7 A. No.

8 Q. Let's look again at that same page, at Line 21. It says:

9 "QUESTION: Would you have accepted the risk of pelvic  
10 pain, that is, pain in your abdomen, if it meant that you  
11 would stop leaking?

12 "ANSWER: Yes."

13 Did I read that correctly?

14 A. Yes.

15 Q. And would you have accepted the risk that a piece of the  
16 mesh might need to be trimmed off if it meant the Obtryx  
17 procedure would have stopped that terrible leaking you were  
18 having?

19 A. Can you rephrase that?

20 Q. Sure.

21 Would you have accepted the risk of having a piece of  
22 the mesh have to be trimmed off if it meant it would have  
23 stopped all the leaking you were having?

24 A. No.

25 Q. No?

—Campbell - Cross - Weiler—

1 A. No.

2 Q. This time could you look at Page 243, please, Line 3.

3 Tell me when you're there.

4 A. Okay.

5 Q. It says:

6 "Would you have accepted that you might have had a  
7 piece of it trimmed off if it meant you would stop leaking?

8 "ANSWER: Yes."

9 Did I read that correctly?

10 A. Yes.

11 Q. Now, you talked with your counsel about a couple of times  
12 when you had to have your mesh trimmed, right?

13 A. Yes.

14 Q. And there were actually, I believe, three different  
15 instances, correct?

16 A. Yes.

17 Q. But am I also correct that those three -- those three  
18 procedures weren't really any trouble for you, right?

19 A. Rephrase. I'm sorry.

20 Q. It's okay.

21 Am I correct that those three troubles -- those three  
22 procedures weren't any trouble for you?

23 A. Yes.

24 Q. And they didn't cause excessive pain, right?

25 A. They do now.



—Campbell - Cross - Weiler—

1 Q. Did the three trimming procedures that you had, did those  
2 cause excessive pain?

3 A. When they went inside my body.

4 Q. When they went into -- inside your body to trim those  
5 three times, did that cause you excessive pain?

6 A. Yes.

7 Q. Okay. Can you turn to Page 243 again? And I'm looking  
8 at Line 11. Are you there?

9 A. Um-hum.

10 Q. It says:

11 "How much trouble were those to you? In other words,  
12 were they painful, were they a problem, were they difficult,  
13 were those three procedures trouble for you?

14 "No.

15 "QUESTION: Did they cause you excessive pain?

16 "ANSWER: No."

17 Did I read that correctly?

18 A. Yes.

19 Q. Were you hospitalized with any of those three procedures  
20 overnight?

21 A. No.

22 Q. And those three experiences, they weren't a traumatic  
23 experience for you, either, were they?

24 A. No.

25 Q. And you didn't have an infection from any of them, right?

—Campbell - Cross - Weiler—

1 A. Not at that time.

2 Q. Now, it's my understanding that you did sign a consent  
3 form with regard to the Obtryx procedure, right?

4 A. Yes.

5 Q. And you put your signature on the consent form, correct?

6 A. Yes.

7 Q. And you trusted Dr. Bhanot's medical opinion that the  
8 Obtryx was appropriate for you at that time, right?

9 A. Yes.

10 Q. And after you had your Obtryx implanted in January of  
11 2011, when you went to see him for follow-up, you didn't have  
12 stress urinary incontinence, right?

13 A. Yes.

14 Q. You did?

15 A. Rephrase.

16 Q. Sure.

17 When you went to see him on January 11th, 2011, so  
18 that's a few days after the Obtryx is put in, you weren't  
19 having leaking, right?

20 A. Right.

21 Q. And, in fact, you weren't really having any problems at  
22 that time, at that visit, right?

23 A. I was having problems with intercourse.

24 Q. You were having problems with intercourse --

25 A. If that's the second time. Is that the second time I

—Campbell - Cross - Weiler—

1    went back?

2    Q.   No, I'm still talking about the first time.

3    A.   Oh, I'm sorry.

4    Q.   We'll get to the next one in a second.

5    A.   It's confusing.

6    Q.   Sure.

7           Let's go to that second time. I understand the dates  
8    can be confusing, right?

9    A.   Yes, it is.

10   Q.   Fair enough.

11           And you talked to us about what you did after your  
12   Obtryx surgery with regard to intercourse. Is that right?

13   A.   Right.

14   Q.   And you told the jury that you independently, by  
15   yourself, decided to wait ten weeks to have sex after the  
16   Obtryx. Is that right?

17   A.   Yes.

18   Q.   And now, it's also my understanding that you told us in  
19   deposition that you had waited six to eight weeks before you  
20   had sex. Do you recall that?

21   A.   I -- eight to ten weeks.

22   Q.   Okay. So let's look at 268. And I'm looking at Line 20,  
23   so tell me when you're there.

24   A.   Okay.

25   Q.   Okay? So Line 20 says:

—Campbell - Cross - Weiler—

1 "How long was it after your first procedure, before the  
2 revision surgery, that you and your boyfriend had intercourse?

3 "ANSWER: About six weeks to eight weeks we waited."

4 Did I read that correctly?

5 A. Yes, but I disagree.

6 Q. Is it possible that you don't remember whether it was six  
7 to eight or eight to ten weeks, ma'am?

8 A. I still believe it was eight to ten weeks. I mean, ten  
9 to eight weeks, I'm sorry. I had it backwards.

10 Q. Sure.

11 Is it fair to say that you probably remembered how long  
12 it was better back then than you do now?

13 A. Yes.

14 Q. Let's look at a record from when you went to see  
15 Dr. Bhanot the second time. So this is from March 22nd, 2011.

16 (The document was published to the jury.)

17 BY MR. WEILER:

18 Q. Do you see the date up there?

19 A. Yes.

20 Q. March 22nd, 2011. And just below that, it says, "The  
21 patient was doing quite well. However, she states her husband  
22 feels something sharp during intercourse even though the  
23 patient was advised to not have intercourse for a few more  
24 weeks."

25 Did I read that correctly?

—Campbell - Cross - Weiler—

1 A. Yes.

2 Q. At that time Dr. Bhanot recommended that you have another  
3 surgery; is that right?

4 A. That's right.

5 Q. Do you dispute the accuracy of Dr. Bhanot's medical  
6 record here?

7 A. Yes.

8 Q. Now, you've seen Dr. Lohri as well, right?

9 A. Yes.

10 Q. And you like Dr. Lohri, right?

11 A. Yes.

12 Q. And you trusted his recordkeeping; is that right?

13 A. Yes.

14 Q. And you've also seen Dr. Heywood, right?

15 A. Yes.

16 Q. And you found him to be a good doctor, right?

17 A. Yes.

18 Q. And you like him?

19 A. Yes.

20 Q. And if Dr. Heywood notes something in his records, you  
21 think it's going to be accurate; fair?

22 A. Yes.

23 Q. And you have no reason to believe that Dr. Heywood would  
24 write something down that wasn't accurate in one of his  
25 records, right?

—Campbell - Cross - Weiler—

1 A. No.

2 Q. So, but you do doubt the accuracy of Dr. Bhanot's  
3 records?

4 A. Yes.

5 Q. Now, let's look at another record, this time of April,  
6 2011. This is Exhibit 31.

7 MS. WAGSTAFF: Can I have a copy of that one, this  
8 record? Oh.

9 (The document was published to the jury.)

10 BY MS. WEILER:

11 Q. Okay. So this one says April 7th, 2011. Do you see that  
12 at the top?

13 A. Yes.

14 Q. And under the findings -- down a little bit further,  
15 please -- it says, "This patient is a few months postop  
16 transobturator tape, however, she engaged in sexual  
17 intercourse against my advice before the healing period was  
18 over, which resulted in erosion a little bit to the right side  
19 of the midline."

20 Did I read that correctly?

21 A. Yes. And I disagree.

22 Q. So you dispute the accuracy of this record as well?

23 A. Yes.

24 Q. Now, am I correct that you do recall that Dr. Bhanot told  
25 you that you should take it easy after your Obtryx surgery?

—Campbell - Cross - Weiler—

1 Is that right?

2 A. That was the second one.

3 Q. That was the second one, not the --

4 A. Yeah. The first one, he did not.

5 Q. He didn't say that after the first one?

6 A. Nope.

7 Q. Let's turn to your deposition, Page 256, if you could.

8 A. What?

9 Q. 256. Tell me when you're there.

10 A. Okay.

11 Q. And, in particular, if you could look at Line 15, okay?

12 It says:

13 "Did he -- do you remember him telling you anything  
14 about what not to do after the first procedure?

15 "ANSWER: He just told me to watch and take it easy and  
16 he was real nice about it and said to take it easy, you don't,  
17 you know, and stuff like that. But he didn't say nothing  
18 about intercourse."

19 Did I read that correctly?

20 A. You read it right, but I disagree.

21 Q. You disagree that I read it correctly?

22 A. No, no, no, no, no. You read it correctly, but I  
23 disagree what it said.

24 Q. So you don't actually recall him telling you to take it  
25 easy?

—Campbell - Cross - Weiler—

1 A. No.

2 Q. So if Dr. Bhanot testified that he did, in fact, tell you  
3 to avoid sexual intercourse after having the Obtryx surgery,  
4 you would say he was wrong?

5 A. I would say he's wrong.

6 Q. Now, eventually, you went to go see Dr. Lohri, correct?

7 A. Yes.

8 Q. And you saw him in roughly November of 2012?

9 A. Something like that.

10 Q. And you were having incontinence again, right?

11 A. Yes.

12 Q. And Dr. Lohri couldn't identify any exposed or eroded  
13 mesh at that time, could he?

14 A. He -- he had done some testing on me.

15 Q. And did he find any exposed or eroded mesh?

16 A. Well, I went to him twice. The first time, he run some  
17 tests on me, and then he put me under and went up there and  
18 put something in there, and it stayed there for a little  
19 while, not very long, and then it came back.

20 Q. Okay. Let's look at one of your medical records from  
21 seeing Dr. Lohri, okay?

22 A. Okay.

23 Q. This is Exhibit 43. It's dated 11-2-12.

24 (The document was published to the jury.)

25 MS. WEILER: And it's Lohri 6.



—Campbell - Cross - Weiler—

1 BY MS. WEILER:

2 Q. Now, I want to look down here at the plan, this is the  
3 paragraph at the bottom, actually. It says at the top, "I had  
4 a long discussion with the patient regarding her exam findings  
5 and her history." Did I read -- excuse me -- did I read that  
6 correctly?

7 A. Can you read it again?

8 Q. Sure.

9 "I had a long discussion with the patient regarding her  
10 exam findings and her history." Did I read that correctly?

11 A. Yes.

12 Q. "Her chart was reviewed extensively with her previous  
13 operative report as well as her prior progress notes." Did I  
14 read that correctly?

15 A. Yes.

16 Q. "I did not identify any evidence of mesh erosion or  
17 extrusion on today's evaluation, nor any other etiologies for  
18 her pelvic pain." Did I read that correctly?

19 A. Yes.

20 Q. So is it your understanding that after this, he did a  
21 procedure where he did an injection?

22 A. No, no, no, no. This was the second time that I went  
23 back to him, and I told him I was still hurting. And he said  
24 that he did not know anything else because he couldn't find  
25 out anything. So I went back to my family doctor after that.

—Campbell - Cross - Weiler—

1 Q. At this time when you saw Dr. Lohri in 2012, it also says  
2 here, "She does appear to still have presence of stress  
3 urinary incontinence." Did I read that correctly?

4 A. Yes.

5 Q. So when you went to see Dr. Lohri, you were having some  
6 incontinence. Is that right?

7 A. Yes.

8 Q. And you understand that he did a procedure on you?

9 A. Yes.

10 Q. And that procedure involved an injection --

11 A. Yes.

12 Q. -- up into your vagina?

13 A. Yes.

14 Q. And that was to help with the incontinence, right?

15 A. That's right.

16 Q. And do you recall that Dr. Lohri told you about risks  
17 associated with that injection procedure?

18 A. I don't remember.

19 Q. Let's look one more time at your depo, if we could, okay?  
20 It's Page 293. Tell me when you're there, all right?

21 A. Okay.

22 Q. Just at the top, Line 1, it says:

23 "Did Dr. Lohri tell you of any risks with the  
24 procedure?

25 "ANSWER: Yes."

—Campbell - Cross - Weiler—

1 Did I read that correctly?

2 A. Yes. I just don't remember.

3 Q. Now, initially, after that procedure, you were doing very  
4 well, right?

5 A. For a little while.

6 Q. And, in fact, you were very happy with that procedure,  
7 correct?

8 A. Yes.

9 Q. You were actually ecstatic with the results of that  
10 procedure, right?

11 A. Yes.

12 Q. Now, am I correct that some time after Dr. Bhanot  
13 performed the second surgery in April of 2011, your sister  
14 told you that she had seen a commercial on TV about mesh being  
15 recalled? Do you remember that?

16 A. Yes.

17 Q. And some time after your sister told you that, you  
18 contacted a lawyer, right?

19 A. Yes.

20 Q. And you ultimately filed a lawsuit in 2013, right?

21 A. I don't remember the date.

22 Q. As part of this lawsuit, am I correct that you are  
23 claiming you are currently experiencing pain during sex and  
24 urinary incontinence? Is that right?

25 A. That's right.

—Campbell - Redirect - Wagstaff—

1 Q. But, regardless of that claim, am I correct that you were  
2 able to fly out to California to be evaluated by Dr. Margolis?

3 A. Yes.

4 Q. And that -- that was arranged through your counsel?

5 A. Yes.

6 Q. Ms. Campbell, you also mentioned that, in response to  
7 some of your counsel's questions, that you didn't know about  
8 whether or not -- or you expected the Obtryx to have been  
9 tested in humans before it was implanted in you, right?

10 A. That's right.

11 Q. And you know that there were studies involving  
12 implantation of the Obtryx in humans prior to it being  
13 implanted in you, right?

14 A. No.

15 MR. WEILER: No further questions, Your Honor.

16 MS. WAGSTAFF: Your Honor, I just have about five  
17 minutes of redirect.

18 THE COURT: All right. I'll take you at your word,  
19 Ms. Wagstaff.

20 MS. WAGSTAFF: May I approach the witness just to see  
21 the deposition transcript she's been reading?

22 THE COURT: Yes, ma'am.

23 (REDIRECT EXAMINATION OF CAROL SUE CAMPBELL BY MS. WAGSTAFF:)

24 Q. Ms. Campbell, I will keep it short. I promised the Court  
25 just a few minutes of your time.

—Campbell - Redirect - Wagstaff—

1 A. Okay.

2 Q. You have been asked several times to look at your  
3 deposition transcript, right?

4 A. Yes.

5 Q. And this relates to testimony that you gave back on April  
6 28th, 2014, right?

7 A. Yes.

8 Q. If you will turn to the page that I pointed you to, which  
9 is Page 6, do you see that?

10 A. Yes.

11 Q. It says, "the videographer," do you see that?

12 A. Yes.

13 Q. And if you look down, it says, "Today's date is April 28,  
14 2014 and the time is 9:01 a.m.," right? Do you see that?

15 A. Yes.

16 Q. "The video deposition is being held in Charleston, West  
17 Virginia." Do you see that?

18 A. Yes.

19 Q. Does that mean the deposition started at 9:01 and it was  
20 videotaped?

21 A. Yes.

22 Q. Okay. If you could please turn to Page 364. Tell me  
23 when you're there.

24 MS. WEILER: Your Honor, may we approach, please?

25 THE COURT: Yes, ma'am.

—Campbell - Redirect - Wagstaff—

1 THE WITNESS: Okay.

2 MS. WAGSTAFF: Does this count towards my five  
3 minutes?

4 (The following occurred at sidebar.)

5 MS. WEILER: I'm going to object based on the  
6 relevancy of this line of questioning.

7 MS. WAGSTAFF: This witness is easily confused. I  
8 would just like to set forth the circumstances of her  
9 deposition. It was an eight-hour deposition and they have  
10 been asking whether or not her inconsistencies were accurate  
11 or not.

12 THE COURT: It's my understanding, Ms. Weiler, based  
13 on the representation that this is -- that Ms. Wagstaff is  
14 trying to rehabilitate this witness, her credibility was  
15 attacked on cross-examination. I will overrule the objection,  
16 reserving the defendant's objection and exception.

17 MS. WAGSTAFF: Thank you, Your Honor.

18 (Sidebar concluded.)

19 BY MS. WAGSTAFF:

20 Q. All right. If you could turn to Page 364.

21 A. I'm here.

22 Q. Do you see where it says, "Whereupon the deposition was  
23 concluded at 5:01 p.m."?

24 A. Yes.

25 Q. All right. So is it my understanding that you had a

—Campbell - Redirect - Wagstaff—

1 videotaped deposition that lasted from 9 in the morning until  
2 5 p.m.?

3 A. Yes.

4 Q. The entire court day, you were having your deposition  
5 taken?

6 A. Yes.

7 Q. Okay. And during that time were you shown several  
8 documents?

9 A. Yes.

10 Q. And were you confused during that eight hours of  
11 deposition?

12 A. Yes.

13 Q. Okay. One other thing I would just like to discuss with  
14 you is that Ms. Weiler walked through several dates, and she  
15 mentioned that there were 12 records of pain in your medical  
16 records. Do you remember that?

17 A. Yes.

18 Q. And she actually displayed a few of them and read  
19 along -- or read to you them. Do you remember that?

20 A. Yes.

21 Q. And I wrote down some of those dates. Were any of them  
22 after your hysterectomy?

23 A. Yes.

24 Q. Let me ask you this.

25 A. Yes.

—Campbell - Redirect - Wagstaff—

1 Q. The dates that I wrote down were September 24th, 2004;  
2 November 3rd, 2004; November 4th, 2004; January 11th, 2007;  
3 March -- I think it was 10th, it may be 16th, 2008; and  
4 December 15th, 2008; and she mentioned an August, 2007 and an  
5 April, 2007. Those were the procedures that she mentioned.  
6 Do you recall that?

7 A. Not right off --

8 Q. Were those dates that I mentioned before or after January  
9 29th, 2009?

10 A. Before.

11 Q. Okay. And, also, Ms. Weiler suggested that the  
12 operations that you were having were, in fact, for adhesions  
13 instead of cysts. Do you remember that?

14 A. Yes.

15 Q. Okay. I would like to just use this ELMO machine and  
16 talk about two of those surgeries.

17 The first one was your surgery in November of 2004, and  
18 actually, Ms. Weiler used this as the eight -- her eighth  
19 document. I don't know if this is -- but if you could see,  
20 this is the op report. Do you see that?

21 A. Yes.

22 Q. And the date right there is November 3rd, 2004?

23 A. Yes.

24 Q. Chronic pelvic pain?

25 A. Yes.



—Campbell - Redirect - Wagstaff—

1 Q. That's, again, before your hysterectomy, correct?

2 A. Yes.

3 Q. And Ms. Weiler used this document to show that you had  
4 chronic pelvic pain back in 2004.

5 A. Yes.

6 Q. And actually, the procedure, which is right -- procedure,  
7 says, "Excision of paratubal cysts and drainage of left  
8 ovarian cyst."

9 A. Yes.

10 Q. Do you see that?

11 A. Yes.

12 Q. So, in fact, it was a cyst removal --

13 A. Yes.

14 Q. -- surgery.

15 I would like to show you the op report from your  
16 August, 2007, surgery which I don't believe was shown. This  
17 is the op report. Do you see that?

18 A. Yes.

19 Q. From your August 16th, 2007 surgery. Do you see that?

20 A. Yes.

21 Q. Samuel Greg Heywood, that's the doctor who did the  
22 procedure, right?

23 A. Yes.

24 Q. And, in fact, "drainage of left ovarian cyst."

25 A. Yes.

—Campbell - Redirect - Wagstaff—

1 Q. Do you see that?

2 A. Yes.

3 Q. So your 2007 surgery was as well dealing with your cysts.

4 A. Yes.

5 Q. Then I would like to show you one last record, and this  
6 was the record from your colon surgery, and this was brought  
7 up from Ms. Weiler. This was -- the date was September 20th,  
8 2013. Do you see that?

9 A. Yes.

10 Q. And this actually was for adhesions and colon cancer, but  
11 they were abdominal adhesions, correct?

12 A. Yes.

13 Q. Which is different than vaginal adhesions, correct?

14 A. Yes.

15 MS. WAGSTAFF: No further questions.

16 MS. WEILER: Your Honor --

17 THE COURT: You can step down. Yes, ma'am?

18 MS. WEILER: I understand that you don't do recross.  
19 I'd ask for recross based on the rule of completeness.

20 THE COURT: All right. No, ma'am. I preserve the  
21 defendant's objection and exception to my denying that.

22 Ladies and gentlemen of the jury, I'm going to give  
23 you a recess for the evening. While you're out, do not  
24 discuss this case among yourselves or permit anyone to discuss  
25 it with you or in your presence. Remember that tomorrow is a

## —Colloquy—

1 holiday, so we will reconvene here at 9 a.m. on Wednesday  
2 morning. Have a good, restful recess, and I'll see you then.

3 (The Jury left the courtroom at 5:29 p.m.)

4 THE COURT: There's a matter you want to take up,  
5 Mr. Farrell?

6 MR. FARRELL: Yes, Your Honor. As you know, there  
7 was a pretrial motion in limine or a pretrial ruling entered  
8 by the Court that prohibits the plaintiffs from presenting  
9 evidence or argument related to other plaintiffs in this civil  
10 litigation. There is literally tens of thousands of  
11 plaintiffs and including some that are former patients of  
12 Dr. Lassere, Dr. Bhanot, Dr. Luby, and actually former  
13 patients of some of Boston Scientific's experts. So, in  
14 general, we've stayed away from the fact that there are other  
15 plaintiffs and patients with problems with the treating  
16 physicians.

17 And what I would like to raise with the Court is  
18 that, in opening statement, and I won't belabor the number of  
19 times they referenced the fact that the treating physicians in  
20 this case all had great results, there is one particular  
21 passage that I would like to raise to the Court's attention,  
22 and ask that you reconsider your ruling barring us from  
23 introducing evidence of other plaintiffs or patients.

24 This is from Page 216, Trial Day 2, November 3rd,  
25 2014. This is opening statement by Boston Scientific and I

—Colloquy—

1 will begin the quote: "And for these doctors that we've  
2 talked about, you're not going to hear from their other  
3 patients. You're just hearing from four people. But think  
4 about it. 550 women at least were treated by these doctors.  
5 90 to 95 percent of these women had successful outcomes. You  
6 won't hear from them."

7           Judge, we believe this opens the door, and at least  
8 for the purposes of us with cross-examination or, as we  
9 proceed with the trial, to introduce relevant evidence that  
10 shows that other doctors have had complications, and including  
11 the three treaters, if they so decide to call them live, and  
12 including cross-examining their experts during their  
13 case-in-chief.

14           We have an inventory that we can present with, for  
15 instance, Dr. Lonny Green. He, in his expert report, says  
16 he's had great results. We think that this line of argument  
17 by Boston Scientific opens the door to get into, for  
18 impeachment purposes, other incidents of plaintiffs that have  
19 had complications and filed lawsuits.

20           THE COURT: All right. Well, in my pretrial  
21 instructions, I, of course, instructed the jury that opening  
22 statements were not evidence. I will, in all likelihood,  
23 instruct them to the same extent during the final instructions  
24 that I give to them. And so, although I certainly understand  
25 your position and where that argument could lead, it's not

—Colloquy—

1 evidence, and I am not going to reconsider the Court's ruling  
2 on allowing any evidence with respect to claims by other  
3 plaintiffs. I preserve the plaintiffs' objection and  
4 exception to my ruling.

5           You all have a good restful recess.

6           COURT SERVICES OFFICER: All rise. This Court stands  
7 in recess.

8           (The proceedings adjourned at 5:33 p.m.)

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**REPORTERS' CERTIFICATE**

**Carol Farrell, CRR, RMR, CCP, RPR, RSA**, Official Court Reporter of the United States District Court for the Southern District of West Virginia, and **Lisa A. Cook, RPR, RMR, CRR, FCRR**, do hereby certify that the foregoing is a true and accurate transcript, to the best of our ability, of the proceedings as taken stenographically by and before us at the time, place, and on the date hereinbefore set forth.

**/S/ Carol Farrell, CRR, RMR, CCP, RPR**

**11/10/14**

**Court Reporter**

**Date**

**/S/ Lisa A. Cook, RPR, RMR, CRR, FCRR**

**11/10/14**

**Court Reporter**

**Date**

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